

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

US EPA RECORDS CENTER REGION 5



423953

UNITED STATES OF AMERICA, )  
)  
Plaintiff, )  
) No. 89 C 5915  
vs. ) Judge James Zagel  
)  
LOUIS WOLF, a/k/a GUSTAV )  
SIERAWSKI, d/b/a Illinois )  
Development Corporation, )  
Commercial Management )  
Company, CMC Management, )  
)  
Defendant. )

The discovery deposition of LOUIS  
WOLF, taken before ETTA R. JONES, Notary  
Public, pursuant to the Federal Rules of Civil  
Procedure for the United States District Courts  
pertaining to the taking of depositions at 230  
South Dearborn Street, in the City of Chicago,  
Cook County, Illinois, on the 13th day of  
March, A.D., 1991, commencing at the hour of  
10:00 o'clock a.m.

## 1 APPEARANCES:

2 United States Attorney's Office

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6 Appeared on behalf of the United  
7 States of America;

8 UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

9 BY: MS. BETH A. HENNING

10 230 South Dearborn Street

11 Chicago, Illinois 60604

12 Appeared on behalf of the United  
13 States Environmental Agency;

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15 BY: MR. JEFFREY SCHULMAN

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18 Appeared on behalf of the Defendant,  
19 Louis Wolf.

## I N D E X

## EXAMINATION OF LOUIS WOLF

PAGE

BY MR. FX:

5

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1 MR. EX: Would you please swear the  
2 witness.

3 (WHEREUPON, the witness was  
4 sworn.)

5 MR. EX: For the record, this is  
6 the deposition of Louis Wolf in the matter of  
7 USA versus Louis Wolf, et al, 89 C 5915.

8 This deposition is taken  
9 pursuant to notice and the Federal Rules of  
10 Civil Procedure.

11 Mr. Wolf, my name is Charles  
12 Ex. I am an Assistant U.S. Attorney, and I  
13 represent the United States in this matter. I  
14 am going to be asking you a series of questions  
15 today related to the lawsuit which we filed  
16 concerning a certain piece of property which  
17 you own at. I believe, 1318 through 1322 North  
18 Western in which there was an EPA chemical  
19 hazardous waste clean up action involved.

20 If at any time you do not  
21 understand the question that I ask you, please  
22 let me know, and I'll try to rephrase that  
23 question for you so that you will understand  
24 it.

1                   You have to, of course, make  
2                   sure that your answers are all audible and not  
3                   a shake of the head or gesture so the court  
4                   reporter can take it down.

5                   LOUIS WOLF,  
6                   called as a witness herein, having been first  
7                   duly sworn, testified upon oral interrogatories  
8                   as follows:

9                   E X A M I N A T I O N

10                  BY MR. EX:

11                  Q.       Mr. Wolf, can you please state your  
12                  name and spell it for the record.

13                  A.       Louis Wolf, L-o-u-i-s, W-o-l-f.

14                  Q.       Do you have a middle name or  
15                  initial?

16                  A.       No middle initial.

17                  Q.       Your date of birth?

18                  A.       December 4, 1923.

19                  Q.       What is your current address?

20                  A.       253 East Delaware.

21                  Q.       Are you married currently?

22                  A.       Yes.

23                  Q.       What is the name of your wife?

24                  A.       Debra, D-e-b-r-a, A-n-n.

1 Q. Do you have any children?

2 A. I do.

3 Q. How many children do you have?

4 A. Two children.

5 Q. What are their ages?

6 A. One is 11, and the other is 13.

7 Q. I understand that you have given  
8 prior depositions before. How many times have  
9 you been deposed?

10 A. I really don't remember. Maybe 15  
11 or 20 times.

12 Q. I know that there is a bankruptcy  
13 litigation pending and you have given a  
14 deposition there.

15 A. Yes.

16 Q. At least on a couple of occasions.

17 A. Yes.

18 Q. You were sworn to tell the truth  
19 during those depositions just as you are sworn  
20 to tell the truth here, correct?

21 A. Yes.

22 Q. I assume you gave truthful answers  
23 in those depositions as you will today?

24 A. Yes.

1 Q. Did you review any documents in  
2 preparation for this deposition here today?

3 A. Not today, no.

4 Q. Did you review any documents at any  
5 time in preparation for coming here today?

6 A. Yes.

7 Q. What documents did you look at?

8 A. They were the documents that were  
9 turned over to Mr. Gesas.

10 Q. As far as you know, those were the  
11 documents -- when you say the documents that  
12 were turned over to Mr. Gesas, do you know if  
13 those were the same documents that were turned  
14 over to the United States?

15 A. I believe so.

16 Q. Generally, could you just describe  
17 the type of documents that you sent to him  
18 rather than my going through every document  
19 that was tendered to me from Mr. Gesas just so  
20 I have an understanding.

21 A. It's been quite a while back. I  
22 don't really remember.

23 MR. SCHULMAN: Off the record.

24

1 (WHEREUPON, a discussion  
2 was held off the record.)

3 BY MR. EX:

4 Q. Mr. Wolf, did you talk to anyone  
5 about your deposition here today before  
6 arriving here?

7 A. Yes.

8 Q. Who were the people that you  
9 discussed this matter with?

10 A. I spoke to my attorney.

11 Q. Did you speak to anyone else other  
12 than your attorney?

13 A. No.

14 Q. Here are a few documents that we  
15 are going to go through here today. As a  
16 preliminary matter, I am going to give to you a  
17 few documents to look at first, and they are  
18 all the discovery responses which you and your  
19 attorneys prepared to certain requests that  
20 were submitted by the government.

21 First of which -- I am sorry I  
22 only have one copy for the two of you -- is for  
23 the record Government Exhibit A, which is the  
24 Response of Defendant Louis Wolf to Plaintiff's

1 Request for Production of Documents.

2 I'll also tender to you what  
3 has been marked as Government Exhibit B, which  
4 is Second Request for the Production of  
5 Documents.

6 I'll also tender to you what's  
7 been marked as Exhibit C, which is Answers to  
8 Interrogatories.

9 I'll also tender to you what  
10 has been marked as Exhibit D, which is Request  
11 for Admissions of Facts.

12 After your lawyer has had a  
13 chance to look through those, Mr. Wolf, I just  
14 want you to look -- have a chance to look  
15 through them. You don't have to read each and  
16 every response.

17 My question is going to be  
18 whether you recognize those documents and  
19 whether you have seen those documents before.

20 (WHEREUPON, a brief pause  
21 was taken.)

22 THE WITNESS: I have seen all other  
23 documents. This last document that was  
24 submitted to you by Jeff Schulman, I hadn't

1 read it, but I had gone over the questions.

2 BY MR. EX:

3 Q. Which document are you referring  
4 to, what letter?

5 A. Your Government Exhibit C.

6 Q. So you haven't actually seen that  
7 document before, but you discussed the  
8 contents?

9 A. Yes.

10 MR. SCHULMAN: You didn't see it in  
11 the final form?

12 THE WITNESS: Final form.

13 BY MR. EX:

14 Q. Let me ask you to turn to the  
15 second to last page which has a signature line  
16 for Louis Wolf.

17 Is that your signature?

18 A. It is.

19 Q. So you saw something --

20 A. Yes.

21 Q. -- that was at least close to this?

22 A. And then I signed it, yes.

23 Q. Let me just turn again briefly to  
24 this Exhibit D. Did you have a chance to look

1 through it with some care here just now?

2 A. Yes.

3 Q. Is there anything in this that you  
4 disagree with or you feel is inaccurate?

5 A. No.

6 Q. Now, I have had some conversations  
7 with your attorney, but just for the sake of  
8 getting this on the record, I want to go  
9 through Exhibit A in the Response of Defendant  
10 Louis Wolf to Plaintiff's Request for  
11 Production of Documents.

12 MR. SCHULMAN: That's the first  
13 one?

14 MR. EX: Right, Exhibit A.

15 BY MR. EX:

16 Q. I want to turn to the second page.  
17 There is a Request No. 4 which asks for all  
18 property tax records relating to the property  
19 located at 1316-1322 Western Avenue from 1982  
20 to present.

21 Have you turned over  
22 everything to your knowledge that relates to  
23 that?

24 A. Everything I had knowledge of I

1 turned over that was in my possession.

2 Q. Because the reason I am questioning  
3 about this specific one, Mr. Wolf, is because I  
4 didn't receive any '89 or '90 tax -- anything  
5 relating to the tax property records.

6 A. The trustee, Andrew Maxwell, would  
7 have all of that. If you asked him for it, I  
8 am sure he will give it to you. If you have a  
9 problem, I'll go to the assessee's office and  
10 get a copy.

11 Q. You don't have the '89 or '90 in  
12 your possession?

13 A. No.

14 Q. You turned over what you had?

15 A. What I had, and they were actually  
16 in possession of those records since that  
17 litigation started.

18 Q. When did the litigation start?

19 A. It has to be about two and a half  
20 years already.

21 Q. I also don't have any property tax  
22 records prior to '87. Would that be the same  
23 circumstances, Mr. Maxwell would have those?

24 A. Yes.

1 Q. You don't have them in your  
2 possession?

3 A. No, I don't. I gave you what I had  
4 in my possession.

5 Q. If you would turn to the next page,  
6 there is an Interrogatory No. 5 which basically  
7 asks for documents relating to Gustav  
8 Sierawski's interest in a number of different  
9 entities, and I know there has been some  
10 response to follow-up interrogatories.

11 My question is do I have all  
12 documents that would be responsive?

13 A. That are in my possession. You do  
14 have everything in my possession.

15 Q. Now, to the next interrogatory --  
16 excuse me -- Production Request No. 6, which  
17 asks for certain corporate or business  
18 documents relating to the same business  
19 entities in Production Request No. 5.

20 I also want to ask you for the  
21 record, have you produced everything that you  
22 have that would relate to what was requested?

23 A. Yes. I really haven't done -- yes.  
24 Everything that I had that I could produce in

1 relation to the names that you made a request  
2 for in five I submitted to my attorney, which  
3 was supposed to have been turned over to you.

4 Q. Turning to the next page, there is  
5 a Request No. 9 which talks about all documents  
6 which evidence any relationship between  
7 yourself and a Gustav Sierawski.

8 That for the record is  
9 S-i-e-r-a-w-s-k-i, and I know that I haven't  
10 received any documents that would have anything  
11 to do with any relationship you may have with  
12 Gustav Sierawski. I just want to make sure for  
13 the record.

14 Do you in fact have any such  
15 documents or agreements that would relate to  
16 any type of business or any type of  
17 relationship you would have with Mr. Sierawski?

18 A. No.

19 Q. The last question I want to ask you  
20 about that document is Request No. 10, which is  
21 also on Page 4, which asks for documents which  
22 would support the affirmative defense of  
23 ownership under 42 U.S.C. Sections 9601 and  
24 9607. That was answered simply none.

1 I had conversations with your  
2 attorney. I just want to make sure in your  
3 mind you are satisfied.

4 You don't have any documents  
5 that would satisfy that request?

6 A. That's true.

7 Q. You stand on that answer today?

8 A. Yes.

9 Q. I want to direct your attention now  
10 to just Exhibit B, which is the Second Request  
11 for Production of Documents, Mr. Wolf.

12 I just again for the record  
13 want to make sure that we have established all  
14 the types of tax returns that you have filed  
15 and that you haven't filed.

16 Request No. 2 asks for tax  
17 returns that you filed with the Federal  
18 Internal Revenue Service from 1982 to the  
19 present, and it lists -- I won't read them  
20 all -- a number of individuals and business  
21 entities.

22 With regard to the request for  
23 all your tax returns, I know that I received  
24 1983 through, I believe, 1986; is that correct?

1           A.       Well, I don't think she has the  
2       1982 return. In fact, the accountant that I  
3       had at the time in 1982 is not with the same  
4       firm, and if it would help you any, if you  
5       needed the 1982 return, I would give you  
6       authorization to get it from the government so  
7       you have it.

8           Q.       That was going to be my next  
9       request. If you have exhausted all your  
10      avenues of trying to find whether or not your  
11      accountant or you may have retained it, then I  
12      would probably make that request.

13                   Are you saying you have  
14      exhausted those avenues?

15          A.       I have, yes.

16          Q.       We can just provide a copy of a  
17      release to your attorney.

18                   Now, I also received an  
19      amended 1983. I never received an original.  
20      Do you know the whereabouts of your original  
21      1983 return?

22          A.       If the accountant would have it. I  
23      would have no idea. If you need the  
24      original -- is that what you need?

1 Q. I need a copy of the original  
2 returns as well.

3 A. Doesn't she have that?

4 Q. I don't know, Mr. Wolf. I am  
5 explaining to you I received in response to my  
6 production just the amended.

7 A. I see.

8 Q. So I am asking you --

9 A. I am not familiar with it.

10 Q. -- whether or not you have  
11 exhausted all avenues of search for the  
12 original.

13 A. I advised the accountant, and I  
14 directed her to cooperate with you and to turn  
15 over whatever it was that she had.

16 Q. To your lawyers?

17 A. To my attorneys, yes, for the  
18 purpose of turning over to you.

19 Q. So to your knowledge your  
20 accountant has done that?

21 A. Oh, yes.

22 Q. Then I guess to try to expedite  
23 things, I would also request the original '83  
24 return then if we can also get you to authorize

1 the release of the original return for '83 as  
2 well.

3 A. See, I don't believe she kept the  
4 forms prior to '84, but if you need  
5 authorization, you can get it from the  
6 government. I'll give you my cooperation.

7 Q. Now, as to your returns from 1987,  
8 '88, and '89, I know that we have had some  
9 discussions -- at least I have with your  
10 attorneys -- about the preparation of those  
11 returns.

12 A. She just about has the '88 and the  
13 '89 completed. However, you are familiar with  
14 the litigation that I am having with my  
15 partner. There are certain properties that I  
16 can't get the income and expenses off of from  
17 him. Those properties were -- they are part of  
18 the partnership returns. So we are sort of  
19 handicapped, and she has made a request for  
20 extentions because of the litigation.

21 Q. For '88 and '89?

22 A. Yes.

23 Q. But you believe that they will be  
24 prepared soon?

1           A.       We are hoping to settle the  
2 litigation in the very near future, and she can  
3 just file them and she can get that information  
4 from him.

5           Q.       What about 1987?

6           A.       I'll have that for you by Friday.  
7 She told me she would have it today, but  
8 sometimes with the mail and everything --

9           Q.       Obviously I can't ask you to pin  
10 down a date with certainty that you don't know,  
11 but what is your best estimate when you would  
12 expect that your '88 and '89 returns would be  
13 in a position to be filed?

14          A.       I think it is only subject to  
15 getting those few buildings. I have asked her  
16 to file them and make a notation that we cannot  
17 give them the accurate figures, but I am  
18 hoping that we'll be able to settle it within  
19 the next week or so.

20          Q.       So you are talking about something  
21 that is imminent?

22          A.       Yes. At least it looks that way.  
23 If you know this partner I've got, it's been a  
24 problem for me.

1 Q. That's Mr. Goldberg you are  
2 referring to?

3 A. Yes.

4 Q. Now, some final questions about  
5 this document.

6 With relation to partnership  
7 tax returns, I know that I have in my  
8 possession partnership tax returns through '87.

9 Do you know anything about the  
10 status or the whereabouts of partnership tax  
11 returns? When I refer to partnership, I am  
12 talking about the Goldberg-Wolf Partnership tax  
13 returns for the years '88 and '89, and for that  
14 matter, if '90 has been prepared or is  
15 imminently about to be prepared and filed, what  
16 the status of those documents are?

17 A. Well, those properties that Mr.  
18 Goldberg has managed over the years, they  
19 amount to something like 22 or 23 properties.  
20 Of the 22 or 23 properties that he has managed,  
21 I don't have the income and the expenses on  
22 those buildings and that's where I am being  
23 handicapped. He has promised, you know, to  
24 submit that information to my attorneys. Once

1 I have that, then I can -- if you want that  
2 information, I can turn that over to you.

3 Q. Let me ask you this. Am I correct  
4 in assuming that Mr. Goldberg was primarily  
5 responsible for the preparation of the  
6 partnership tax records?

7 A. Yes, and on the majority of the  
8 properties. In fact, on all the properties he  
9 was collecting the income from those properties  
10 other than the property that we have in  
11 California. I had taken that over from one of  
12 his agents for several years. Other than that,  
13 he was in complete control of the income and  
14 the expenses.

15 Q. So you are depended on him and his  
16 accountants for the preparation of the taxes?

17 A. From the inception of the  
18 partnership.

19 Q. Including the K Schedules and  
20 K-1's?

21 A. That's right.

22 Q. Would you have any expectation that  
23 as soon as your bankruptcy partnership  
24 litigation is concluded that those documents

1 will be forthcoming soon thereafter?

2 A. Absolutely.

3 Q. So in similar situations your '88  
4 and '89 tax returns then, personal tax returns,  
5 you would hope that you would be in a position  
6 to have those documents soon after the  
7 settlement?

8 A. I certainly hope so, but I don't  
9 see any reflection in '88 or '89 to this  
10 particular building that you are concerned  
11 about because there has been nothing coming out  
12 of it.

13 Q. You have to understand because  
14 there are issues of ownership that are at issue  
15 here, we have to know that.

16 Mr. Wolf, can you tell us what  
17 your occupation is?

18 A. I am in the real estate business.  
19 in the real estate -- commercial line of buying  
20 and selling real estate and managing.

21 Q. Now, are you involved in real  
22 estate construction as well?

23 A. I do that, yes.

24 Q. Do you rent property?

1 A. I do.

2 Q. Part of your real estate business  
3 is rental as well as purchase and sale?

4 A. Yes.

5 Q. Do you -- are you involved with the  
6 purchase and sale or management of residential  
7 property?

8 A. No.

9 Q. So you deal strictly in commercial  
10 property?

11 A. 98 percent.

12 Q. What's the other two percent?

13 A. Whatever comes up.

14 Q. But not residential?

15 A. It may be residential.

16 Q. So you do some but just a small  
17 amount?

18 A. Very small amount. I try not to.

19 Q. Now, as part of your real estate  
20 business, you are involved in the purchase of  
21 real estate tax deeds; is that correct?

22 A. Tax certificates.

23 Q. Tax certificates?

24 A. Yes.

1 Q. Is that sometimes purchased through  
2 what's known as scavenger sales?

3 A. It is through annual and scavenger  
4 sales.

5 Q. What's the difference between  
6 annual versus scavenger sales just so I  
7 understand that?

8 A. The annual sale is the property  
9 that's being sold that would have one year  
10 delinquency.

11 The scavenger sale could go  
12 back whereby the product -- the certificate  
13 might cover a ten-year period of time that  
14 taxes were not paid on that particular  
15 property. Up to this point, the county has  
16 been selling five-year delinquent properties  
17 and longer.

18 So the annual sale when you  
19 buy the annual certificate, you purchase that  
20 on a percentage of the real estate interest.  
21 The county sells the property from zero to 18  
22 percent semi-annually.

23 On the scavenger sale, the  
24 total amount of taxes that are due plus the

1 penalties are sold at a discount.

2 Q. At the annual you were also saying  
3 it is up to like an 18 percent. Is that 18  
4 percent of the taxes owed or 18 percent of the  
5 value of the property?

6 A. The schedule for purchasing the  
7 delinquent tax when it is being sold, they sell  
8 it at 18 percent, and then the bidders that are  
9 there, they bid the amount down. So you can  
10 buy it at zero percent depending what your  
11 intention is to do with that particular tax  
12 buy.

13 Q. When you use the percentage, what  
14 is it a percentage of?

15 A. Of the interest. Of the total  
16 taxes plus the interest.

17 Q. Okay.

18 How long have you been  
19 involved in such purchases?

20 A. Approximately ten years.

21 Q. How long have you been in the real  
22 estate business?

23 A. About 25 years.

24 Q. How many properties would you say

1 over the last ten years you have purchased  
2 through the scavenger and annual sales?

3 A. You don't purchase properties. You  
4 purchase certificates.

5 Q. I am sorry. For clarification I  
6 meant the certificates.

7 A. Maybe a couple hundred.

8 Q. Can you tell me when you purchase  
9 those certificates, how long does it take to  
10 redeem the property so that you can take title?

11 A. It is a two-year redemption period.

12 Q. So you have to wait two years?

13 A. On commercial property you can  
14 go -- could deed a lot sooner, but the  
15 procedure is a two-year proceeding.

16 Q. Where do you own -- let me back up.

17 How many properties would you  
18 say you have owned since you have been in the  
19 real estate business?

20 MR. SCHULMAN: Give him an  
21 estimate.

22 THE WITNESS: I don't know. You  
23 have my records.

24 MR. EX: I don't have any records

1 to that. I just have some tax returns.

2 THE WITNESS: Well, the tax returns  
3 would reflect the deeds that I have obtained.

4 MR. EX: Unfortunately, I only have  
5 a limited number of tax returns, and I am  
6 asking you over the period of years that you  
7 have been in real estate, to the best of your  
8 recollection, how many properties have you  
9 bought and sold.

10 THE WITNESS: You are saying bought  
11 sold and have?

12 MR. EX: Correct, that you have  
13 dealt with.

14 THE WITNESS: In excess of a  
15 hundred properties.

16 BY MR. EX:

17 Q. Would it be accurate to also say in  
18 excess of a thousand properties?

19 A. No. That's no way.

20 Q. Geographically where are the  
21 properties located that you have had, owned, or  
22 sold?

23 A. You are saying in Cook County or --

24 Q. Do you own property anywhere else

1       besides Cook County?

2           A.       I have owned property in other  
3       places, and I own property in other places, but  
4       that would be reflected -- you have that in  
5       the -- on the tax returns where I own  
6       properties.

7           Q.       You own property in California?

8           A.       I own property in California. I  
9       own property in Texas. I own property in  
10      Arizona. I own property in -- I have had  
11      property in the past in Indiana. I guess  
12      that's about it.

13          Q.       In the Chicagoland area, do you own  
14      or have you owned property outside of Cook  
15      County?

16          A.       I believe so.

17          Q.       Where does the majority of your  
18      business take place?

19          A.       In Cook County.

20          Q.       How much actual construction are  
21      you involved in?

22          A.       Well, you know, there is always  
23      construction to be done. We do -- a lot of  
24      construction work is involved in the

1 maintaining of the properties.

2 Q. Now, outside of just the  
3 maintenance -- the construction dealing with  
4 maintenance, have you ever constructed a  
5 building just from the ground up as new  
6 construction?

7 A. Yes.

8 Q. How many properties have you  
9 constructed new?

10 A. Maybe half a dozen.

11 Q. This is during your 25 years in the  
12 real estate business?

13 A. Yes.

14 Q. Do you have any -- strike that.

15 Do you inspect the property  
16 that you buy before purchasing it?

17 A. Not always.

18 Q. Under what circumstances do you  
19 inspect the properties that you own before you  
20 buy them?

21 A. Well, it all depends upon what I am  
22 paying for the property. It depends upon if I  
23 am making a trade on the properties. I take  
24 other things into consideration, you know.

1 Q. I just need to know what other  
2 types of factors you take into consideration.

3 A. Depends on what I invest in the  
4 property and how long it takes for me to get my  
5 investment back.

6 Q. What percentage of your properties  
7 would you say you inspect prior to the  
8 purchase?

9 A. I would say 90 percent of them.

10 Q. When you do these inspections, who  
11 do you use to do your inspections?

12 A. I'll take a visual inspection of  
13 everything that I buy, and I am familiar with  
14 the location of most properties in the City of  
15 Chicago. I spent my whole life here.

16 Q. When you do those visual  
17 inspections, do you mean you personally do them  
18 or you hire somebody to do them for you?

19 A. I personally go out and look. If I  
20 am going to invest, I look at them myself.

21 Q. Do you ever hire anyone to look at  
22 it for you or with you?

23 A. Only if an appraisal is required.

24 Q. When an appraisal is required, who

1 do you use to inspect it?

2 A. I'd have to get you those names. I  
3 have used half a dozen people.

4 Q. Are those real estate appraisers?

5 A. They are regular real estate  
6 appraisers, yes. They use them with the banks  
7 and so forth.

8 Q. How often -- strike that.

9 Let me ask you this. What  
10 percentage of the property that you buy would  
11 you say you have an appraiser come out to look  
12 at the property?

13 A. Maybe ten percent.

14 Q. Other than retaining real estate  
15 appraisers, do you ever bring anyone else out  
16 to inspect your property prior to purchasing  
17 it?

18 A. Depends on who I am partners with.  
19 If I have a partner, then the partner goes with  
20 me and we take a look at the property.

21 Q. Other than your partners that you  
22 would be investing with, anyone else?

23 A. No, no one else.

24 Q. Do you ever personally inspect your

1 property after you purchase properties?

2 A. Not on commercial property. I  
3 usually don't do that unless I have a complaint  
4 from the tenant that there is something wrong  
5 in the building. Then I'll send, you know,  
6 either a plumber, or I will send a roofer out  
7 there to inspect it. If it is an electrical  
8 problem, I'll send an electrician over there.

9 Q. Do you -- besides hiring these  
10 contractors to do like roofing and plumbing and  
11 other types of maintenance work, do you have  
12 anybody that works for you that would go to  
13 inspect your properties after they have been  
14 purchased or during the management process of  
15 your buildings?

16 A. No.

17 Q. So if there was any inspection to  
18 be done on a piece of property that you owned,  
19 you would be the person to do it?

20 A. I would definitely be the person.

21 Q. Do you own most of your property  
22 alone, or do you own most of your property in  
23 conjunction with other parties?

24 A. I would say most of the property

1 would be owned alone.

2 Q. Would it be fair to say that one of  
3 the purposes of your real estate business is to  
4 make a profit?

5 A. I try to.

6 Q. So you would agree with that?

7 A. Yes. That doesn't always happen,  
8 you know.

9 Q. It is the pursuit of a goal,  
10 though?

11 A. That's what we are in business for,  
12 to make a profit. That's what you are supposed  
13 to make, but you don't always make a profit.

14 Q. Can you tell me what is the  
15 business nature of the following partnerships,  
16 and I'll tell you these are partnerships that I  
17 have seen from your tax returns.

18 The Wolf-Ronald Vecchione,  
19 V-e-c-c-h-i-o-n-e. I don't know if I am  
20 pronouncing that right or not.

21 A. You mean the extent of that?

22 Q. First of all, I need to know if  
23 that is a real estate partnership.

24 A. It was a partnership. The property

1 has been sold.

2 Q. It was dealing in ownership and  
3 management?

4 A. Of one building, yes.

5 Q. It is no longer in existence?

6 A. It is not.

7 Q. What was the percentage of  
8 ownership?

9 A. It was 50-50.

10 Q. How about the Wolf-Kasim Pirlant,  
11 P-i-r-l-a-n-t, first name K-a-s-i-m?

12 A. That's a -- that's a partnership  
13 50-50. That's in relation to two properties.

14 Q. So it is also a real estate  
15 partnership?

16 A. Yes.

17 Q. Is it still in existence?

18 A. It is, yes.

19 Q. How about the Wolf-Benneta Berke,  
20 et al Partnership?

21 A. That consists of a 50-50  
22 partnership. I believe it is five or six  
23 buildings.

24 Q. That's still in existence?

1 A. Yes.

2 Q. How about the Wolf-Richard Urso,  
3 U-r-s-o?

4 A. That was a partnership in relation  
5 to one building.

6 Q. Still in existence?

7 A. No, it is not.

8 Q. And then of course there is the  
9 Wolf-Goldberg Partnership, I assume --

10 A. Yes.

11 Q. -- correct?

12 Is that still in existence,  
13 that partnership?

14 A. Yes.

15 Q. What percentage of ownership  
16 interest do you have in the partnership, 50-50?

17 A. It is 50-50.

18 Q. What is the PLI, Inc.? That is the  
19 Park Lane Investments?

20 A. This was a partnership account  
21 management company that was -- it was the  
22 Goldberg-Wolf Partnership. I believe it was a  
23 checking account.

24 Q. It is the checking account.

1 basically, PLI?

2 A. Yes.

3 Q. So it is a part of the  
4 Wolf-Goldberg Partnership?

5 A. It is.

6 Q. It is not a separate entity? You  
7 don't treat it separately from the  
8 Wolf-Goldberg Partnership?

9 A. It is a partnership account that  
10 Mr. Goldberg is the sole -- controls it solely  
11 by himself.

12 Q. Do you consider its assets part of  
13 the Wolf-Goldberg Partnership?

14 A. They should be.

15 Q. Okay.

16 Without getting into a big  
17 technical, I am just asking for what your  
18 understanding is.

19 A. My understanding is that it is a  
20 partnership account and it should be treated as  
21 such.

22 Q. Is there such a business or  
23 partnership that you have called B & W?

24 A. Yes.

1 Q. What is it called exactly, B & W?

2 A. Investments.

3 Q. Investments?

4 A. Yes.

5 Q. Who is in that partnership?

6 A. That's my part -- I am the sole  
7 owner to that partnership.

8 Q. Sole owner?

9 A. Yes.

10 Q. Is that also a real estate  
11 operation?

12 A. It is a management company is what  
13 it is.

14 Q. How many properties does it manage?

15 A. I would say 50 or 60 properties.

16 Q. What is Illinois Investments?

17 A. It was an assumed name.

18 Q. Assumed name?

19 A. Yes.

20 Q. Assumed name for whom?

21 A. It was the assumed name for myself.

22 Q. For yourself?

23 A. Yes.

24 Q. Was there anybody else who had any

1 ownership interest?

2 A. I don't know if any Mr. Goldberg at  
3 any time used that name. I am not really  
4 familiar with what Mr. Goldberg does all the  
5 time.

6 Q. So as far as you know, as you sit  
7 here today, Illinois Investments was an assumed  
8 name for yourself?

9 A. Yes.

10 Q. You were doing business as Illinois  
11 Investments?

12 A. Yes.

13 Q. What was the nature of Illinois  
14 Investments? What type of business was that?

15 A. It was management. We were  
16 managing some real estate under that name. I  
17 believe that there were some tax certificates  
18 that were purchased under that name also.

19 Q. How many properties were you  
20 managing or how many certificates?

21 A. I don't remember.

22 Q. More than --

23 A. Are you interested in all my  
24 business, or are you interested in this one

1 particular building?

2 Q. Well, due to the nature of the  
3 lawsuit, I have to get into some of the  
4 background of your overall business, too, which  
5 is why I am asking these questions.

6 A. All right. Proceed then.

7 Q. Would you say you were involved  
8 with over 50 properties in Illinois  
9 Investments?

10 A. I don't know how many certificates  
11 we bought that time. You are talking about  
12 1980. I think I used that Illinois Development  
13 and Investments in 1980. I really don't  
14 remember.

15 I can't give you an honest  
16 answer to just how many properties we bought at  
17 that particular sale. I mean not property, but  
18 certificates.

19 Q. How many properties were you  
20 managing as distinct from the sales? Do you  
21 know?

22 A. Not that many. I don't know. 10  
23 or 15.

24 Q. You kept using the word we in

1 describing Illinois Investments. Was there  
2 someone else helping you?

3 A. Mr. Goldberg had some interest in  
4 that at the time.

5 Q. All of these partnerships or doing  
6 business as entities that you have just  
7 described to me that we have just discussed,  
8 have any of those partnerships been written  
9 agreements?

10 A. No.

11 Just from the properties was  
12 purchased, you know, where we -- where the  
13 trustee was a bank, then the entity holder in  
14 some circumstances would be both names as  
15 50-50, but the arrangements that I had with Mr.  
16 Goldberg was that those properties would be  
17 held in his name and they are in a trust that  
18 was set up with him for the sole beneficiary  
19 for the purpose of getting financing on the  
20 particular buy and otherwise, I mean, those  
21 properties would have been held in a trust  
22 whereby we would have a 50-50 interest in the  
23 beneficial -- as beneficiaries under that  
24 particular trust.

1 Q. So what you are saying is that none  
2 of your partnerships had any written agreements  
3 except when land was held in a trust?

4 A. Right.

5 Q. Then there would be some document  
6 documenting the trust?

7 A. And the partnership would be  
8 reflected on our tax returns.

9 Q. Are there any other real estate  
10 partnerships other than what we have just  
11 talked about that you recall that you have had  
12 in the real estate business?

13 A. I don't believe so.

14 Q. Mr. Wolf, let me show you what's  
15 been marked as Exhibit E, which for the record  
16 is a 1977 agreement.

17 (WHEREUPON, a brief pause  
18 was taken.)

19 THE WITNESS: Yes, I am familiar  
20 with this.

21 BY MR. EX:

22 Q. So can you tell me if this is an  
23 agreement that was entered into between you and  
24 Kenneth Goldberg?

1           A.       This was an agreement that was  
2 entered into with Mr. Goldberg in 1977 when I  
3 had a problem with Mr. Goldberg.

4                       We had gone over to Mr. Levin,  
5 who was the attorney at the time, and in order  
6 to ask a agreement on certain properties, I  
7 felt that it was important that something  
8 should be written in writing, which is -- you  
9 can see what it is. It is not really too much.

10          Q.       So this is --

11          A.       That indicates the properties that  
12 were partnership properties at that time and  
13 incorporates the piece of property at State and  
14 Division Streets which was to be paid for with  
15 funds, you know, from Mr. Goldberg and myself  
16 to Mr. Berke.

17                    However, Mr. Goldberg, who  
18 considers himself a partner on that property,  
19 never, you know, came forth with his portion of  
20 the monies that were due, you know, in  
21 purchasing this property.

22          Q.       Correct me if I am wrong. This is  
23 a partnership agreement, though, correct?

24          A.       Well --

1 MR. SCHULMAN: Objection.

2 THE WITNESS: I don't know. Is it?

3 MR. SCHULMAN: The document speaks  
4 for itself. It is a document. He has now told  
5 you what is involved. He has now told you what  
6 it was over. It also lists the property, and I  
7 don't know one piece of property that is listed  
8 on the second page that has the address of 1316  
9 to 1322 North Western Avenue.

10 MR. EX: That's correct.

11 MR. SCHULMAN: Okay. I believe  
12 your complaint is over 1316 to 1322 North  
13 Western Avenue, okay?

14 MR. EX: Right.

15 MR. SCHULMAN: Next question.

16 BY MR. EX:

17 Q. Mr. Wolf, have you entered into any  
18 other written agreements with Mr. Goldberg  
19 besides this one?

20 A. No.

21 Q. How long were you in partnership  
22 with Mr. Goldberg prior to 1977?

23 A. I believe the first property that  
24 we purchased as a partnership was in 1972.

1 Q. Marshall Levin was the one you say  
2 helped prepare this?

3 A. Apparently so, yes. I think his  
4 name is on it, isn't it? Yes, his name is on  
5 it as a witness.

6 Q. Mr. Wolf, you have talked a little  
7 bit here already that you have done business  
8 under other names besides Louis Wolf, correct?

9 A. Yes.

10 Q. You have done business under  
11 Commercial Management Company; is that correct?

12 A. When you say done business, what do  
13 you mean by done business? You mean the name  
14 to be used to build properties?

15 Q. Conduct real estate business.

16 A. Yes.

17 Q. You were the sole owner of  
18 Commercial Management Company?

19 A. Yes.

20 Q. You controlled that business,  
21 correct?

22 A. Yes.

23 Q. Commercial Management Company is  
24 not a corporation; is that right?

1 A. That's right.

2 Q. It was not incorporated in any  
3 state?

4 A. Yes.

5 Q. Do you know somebody by the name of  
6 Robert Cohen in connection with that business?  
7 Let me try to focus the question.

8 Is Robert Cohen part of the  
9 management of that business in any way, anyone  
10 by that name to your knowledge?

11 A. No. I don't believe I recognize  
12 that name.

13 Q. Now, you also do business under CMC  
14 Management Company, correct?

15 A. Yes.

16 Q. Again, you are the sole owner --

17 A. Yes.

18 Q. -- and control of that business?

19 That's also not a corporation,  
20 correct?

21 A. That's true.

22 Q. Now, the Illinois Development  
23 Corporation, you also are the sole owner of  
24 that business?

1           A.       Well, I don't know if Kenny is part  
2 owner of that business. I would have to check  
3 the files. I don't have those records before  
4 me.

5           Q.       If there is another owner --

6           A.       It would be Kenny.

7           Q.       -- it would be you and Mr.  
8 Goldberg?

9           A.       Yes.

10          Q.       It is not incorporated?

11          A.       No.

12          Q.       Has anybody by the name of a Mr.  
13 Groot, G-r-o-o-t, ever been involved in the  
14 management or ownership of that business?

15          A.       Not that I am aware of.

16          Q.       Anybody by the name of Jack  
17 Hlustik, H-l-u-s-t-i-k, ever been involved in  
18 the ownership or running of that business to  
19 your knowledge?

20          A.       No.

21          Q.       Anybody by the name of Lee  
22 Brandsma, B-r-a-n-d-s-m-a, ever been involved  
23 in the ownership or management of that business  
24 to your knowledge?

1 A. No.

2 Q. Has that business ever been  
3 operated out of Elk Grove Village to your  
4 knowledge?

5 A. No.

6 Q. Has it ever had offices in 20 North  
7 Wacker?

8 A. No.

9 Q. There was a business or some type  
10 of entity called CMC 1320 Western. That is  
11 according to some of your answers to  
12 interrogatories and request to admit. That is  
13 not in fact a business entity but rather a real  
14 estate tax reference?

15 A. It was reference to a tax buy, yes.

16 Q. What is the purpose of using that  
17 name as a tax reference rather than just using  
18 the name of the owner?

19 A. Because it reflects the address of  
20 the property. So when you are looking at the  
21 bill when the bill comes in, it is a -- it  
22 describes the property other than a permanent  
23 tax number.

24 Q. Commercial Construction Company.

1 you also own and control that business?

2 A. Yes.

3 Q. Is Commercial Construction

4 Company -- has anybody by the name of a John

5 Theodosakis, T-h-e-o-d-o-s-a-k-i-s, ever been

6 involved in the ownership or operation of that

7 business to your knowledge?

8 A. No.

9 Q. Has that business ever operated out  
10 of Rosemont, Illinois, to your knowledge?

11 A. No.

12 Q. Is Commercial Construction Company  
13 still in existence?

14 A. Yes.

15 Q. How long has it been in existence?

16 A. I don't know; five or ten years.

17 Q. What is the general business  
18 purpose of Commercial Construction Company?

19 A. To obtain permits from city  
20 permits.

21 Q. Does it serve any other function?

22 A. No.

23 Q. I think you have already explained  
24 CMC 1320 is just purely for the tax reference

1 purpose, correct?

2 A. Yes.

3 Q. It doesn't serve any other purpose?

4 A. None whatsoever.

5 Q. How about Illinois Development  
6 Corporation? How long has that been in  
7 existence?

8 A. I believe since 1980.

9 Q. What's the function of that?

10 A. It was used in the process of  
11 management, and there was some certificates  
12 that were purchased under that name --

13 Q. How many properties?

14 A. -- by Mr. Goldberg.

15 Q. I am sorry.

16 How many properties did it  
17 manage? Do you know?

18 A. Well, in 1980 you are asking or as  
19 of now?

20 Q. Well, let's start in 1980.

21 A. I don't know if Mr. Goldberg is  
22 still using that name. I don't know. Five or  
23 six pieces of real estate possibly. Maybe  
24 seven.

1 Q. How about currently?

2 A. Well, I believe he is using that  
3 name. I guess he uses that name on and off in  
4 the partnership properties.

5 Q. Do you currently use that name at  
6 all?

7 A. No.

8 Q. How about CMC Management Company?  
9 How long has that been in existence?

10 A. Possibly 20 years.

11 Q. How many properties does it  
12 currently manage?

13 A. I can't give you an intelligent  
14 answer to that.

15 Q. More than ten?

16 A. Yes, more than ten.

17 Q. More than 20?

18 A. Possibly more than 20.

19 Q. How about more than 50?

20 A. I don't think so, no.

21 Q. So it could be somewhere between 20  
22 and 50?

23 A. I think it would be more between 10  
24 and 20.

1 Q. How about Commercial Management  
2 Company? How long has it been in existence?

3 A. Its been in existence while CMC has  
4 been in the business. Just the initials from  
5 Commercial Management. We use the initials.

6 Q. So there is no difference between  
7 the two businesses?

8 A. There should not be, no.

9 Q. So it is not managing any different  
10 properties?

11 A. That's right.

12 Q. Or involvement in any different  
13 business than CMC Management Company?

14 A. Yes.

15 Q. You are using those two terms  
16 synonymously?

17 A. Yes.

18 Q. Now, when you have used those  
19 assumed names, do you file assumed name  
20 certificates in the county where they do  
21 business?

22 A. We have.

23 Q. Do you do that as a matter of -- as  
24 a matter of general business practice?

1           A.       We have done it, but the assumed  
2       name -- their policy is you have to pick up  
3       the -- we have published under those names, but  
4       as I remember, you are supposed to pick up --  
5       after they publish, they have a policy that you  
6       have to pick the -- their certificate within X  
7       amount of days after they publish, and I am not  
8       certain that those certificates were picked up.  
9       I believe they are on file, though, down at the  
10      assumed name.

11           Q.       In Cook County?

12           A.       In Cook County, yes.

13           Q.       As far as you know, as you sit here  
14      today, all the businesses that are still in  
15      existence that we have just mentioned, are they  
16      still in good standing?

17           A.       With whom?

18           Q.       With the county and or the state.

19           A.       As far as being in good standing, I  
20      believe the assumed name is in good standing.  
21      These are not corporations. They are just  
22      assumed names that we have operated under.

23           Q.       You have also operated under the  
24      alias or assumed name of William Berke also; is

1       that correct?

2           A.       Well, yes, I have used the name of  
3       William Berke.

4           Q.       Who is William Berke?

5           A.       William Berke is a nephew of mine,  
6       my sister's name.

7           Q.       That is spelled B-u-r-k-e?

8           A.       B-e-r-k-e.

9           Q.       B-e-r-k-e. I am sorry.

10                    You have owned other real  
11       estate in the names of nominees; isn't that  
12       correct?

13           A.       I have purchased property in the  
14       name of nominees, yes.

15           Q.       Have you used the name William  
16       Berke as a nominee in the purchase of property?

17           A.       Yes.

18           Q.       What other names have you used as  
19       nominees?

20           A.       Well, you have the name of  
21       Sierawski. I used that as a nominee.

22           Q.       That's Gustav Sierawski?

23           A.       Yes.

24           Q.       Who is Gustav Sierawski?

1 A. He was a roofer that worked with me  
2 years back.

3 Q. When you say years back, when was  
4 the last time that he worked with you?

5 A. I don't remember.

6 Q. Has he worked with you since 1980?

7 A. No.

8 Q. This was prior to 1980?

9 A. Yes.

10 Q. Have you been in contact with Mr.  
11 Sierawski since 1980?

12 A. No.

13 Q. When was the last time you were in  
14 contact with Mr. Sierawski?

15 A. I don't remember.

16 Q. But as far as you know as you sit  
17 here today, you have never spoken to him or  
18 communicated with him since 1980?

19 A. I don't know if it is '80 or '84 or  
20 '83. I don't know. I don't remember.

21 Q. Is Mr. Sierawski still alive?

22 A. I don't know. I don't believe so.

23 Q. Where was he living the last time  
24 that you knew of him or where he was or had

1       communicated with him at any time?

2           A.       The last time he was living in a --  
3       in the area around North Avenue and Damen  
4       Avenue.

5           Q.       Just for the record, Sierawski is  
6       S-i-e-r-a-w-s-k-i?

7           A.       That's right.

8           Q.       Gustav, G-u-s-t-a-v, is his first  
9       name?

10          A.       Yes.

11          Q.       Was Mr. Sierawski married to your  
12       knowledge?

13          A.       He was married, yes. I think his  
14       wife had passed away previously. I know she  
15       was an invalid. That's when they lived in the  
16       2400 block of Ogden Avenue.

17          Q.       Do you know anyone who was friendly  
18       to Mr. Sierawski to the extent they would know  
19       where he is or his whereabouts today?

20          A.       No. I am sure he is not living.

21          Q.       How long did you know him for?

22          A.       I knew him for quite a few years;  
23       20 years.

24          Q.       Did Mr. Sierawski ever sign any

1 agreements with you?

2 A. No.

3 Q. Did he ever give you a power of  
4 attorney on his before?

5 A. No. I don't believe so. Wait. I  
6 think he did give me power of attorney. He did  
7 give me a power of attorney. That's when he  
8 was living on Ogden Avenue. I don't remember.  
9 That's been such a long time ago.

10 Q. So you are saying you don't  
11 remember whether he gave you power of attorney  
12 or that he did give you power of attorney but  
13 you don't know when?

14 A. I had a power of attorney from him  
15 at one time because this was some kind of -- I  
16 recall some kind of case that was pending.

17 Q. What was the nature and extent of  
18 the power of attorney? What were you  
19 authorized to do on his behalf?

20 A. I don't remember. I don't  
21 remember. It's been such a long time.

22 Q. Did it have anything to do with  
23 authorization to buy property or dispose of  
24 property on his behalf?

1 A. I don't remember.

2 Q. I take it you don't have a copy of  
3 this power of attorney?

4 A. I don't believe so. You are  
5 talking 30 years ago.

6 Q. Do you know if Mr. Sierawski had an  
7 accountant by any chance?

8 A. I don't think so.

9 Q. I want to focus your attention back  
10 to the Goldberg-Wolf Partnership.

11 Was Mr. Sierawski employed by  
12 that partnership?

13 A. No.

14 Q. So he never did any work for the  
15 partnership in any way?

16 A. No.

17 Q. You have already described the  
18 partnership as basically being a 50-50  
19 partnership; is that correct?

20 A. Yes.

21 Q. When you describe it as being  
22 50-50, meaning you each had an equal stake in  
23 the assets held or the liabilities assumed by  
24 the partnership?

1 A. Yes.

2 The capital account  
3 fluctuated, but the partnership was to be on a  
4 50-50 basis whereas the profits or the expenses  
5 or the income or the losses would be split  
6 50-50.

7 Q. Was there a discrepancy in the  
8 amount of initial capital contributions made  
9 between you and Mr. Goldberg?

10 A. When Mr. Goldberg originally came  
11 to me, he was supposed to put up the initial  
12 investment, and the agreement was that we would  
13 buy property that was income-producing  
14 properties, that I was to draw nothing out of  
15 the business until his interest -- until his  
16 original investment was returned to him.

17 That's the way we operated the  
18 business. It was agreed that he would manage  
19 the property and he would make the payments  
20 from the property on those investments.

21 Q. You would buy and manage property?  
22 Is that essentially what the partnership was  
23 designed for?

24 A. We would buy property that was

1 income-producing property, and we would finance  
2 the property either through the person that we  
3 purchased it from or from a financial  
4 institution.

5 That's basically what we did.  
6 We bought those properties. The properties  
7 that we would purchase were properties that  
8 would produce income, would carry the -- if it  
9 was a mortgage or a loan at the bank, and we  
10 would try to pyramid those businesses, you  
11 know, with using that collateral for additional  
12 loans, buying more property, and expanding the  
13 business.

14 Q. Those were commercial properties  
15 that the partnership was primarily purchasing?

16 A. Yes.

17 Q. Now, I don't want to misstate your  
18 testimony, but I believe you were stating that  
19 Mr. Goldberg was responsible for the management  
20 of the property, the partnership property.

21 A. Yes.

22 Q. Was he also responsible for the  
23 day-to-day business activities of that  
24 partnership, the day-to-day running of the

1 partnership? Is that correct?

2 A. I didn't.

3 He was on those partnership  
4 properties consistently because his portfolio  
5 was limited and he wanted to be in partners  
6 with me. He had a few dollars, so I agreed to  
7 go into partners with him and participate with  
8 him in the management if it was required, but  
9 that he would do all the rental collections and  
10 he would follow-up on the maintenance or  
11 whatever was required, you know, in the  
12 operation of the partnership.

13 Q. As part of the responsibility of  
14 operating the partnership, was he responsible  
15 for keeping track of the finances of the  
16 partnership?

17 A. Yes.

18 Q. Was he responsible for keeping  
19 track of the partnership accounts or accounting  
20 that needed to be performed?

21 A. I was on the partnership at the  
22 checking account. I was on the partnership for  
23 awhile, and he claims that he had lost the  
24 checkbook or somebody took the checkbook out of

1 the car. Then he went into the bank and then  
2 he put the account in his own name.

3 Q. But he would be -- correct me if I  
4 am wrong. Was he responsible for preparing any  
5 tax documents? I believe you stated that  
6 earlier.

7 A. The tax returns we would manage to  
8 sit down with the accountant at the end of the  
9 year and then I would go over all of the income  
10 and I would go over all the expenses with him  
11 because I was instrumental in leasing the  
12 properties out or being involved, you know, in  
13 the operation of the business.

14 I would make up all the  
15 leases, and I was instrumental in the purchase  
16 of the properties.

17 Q. When you say you were instrumental  
18 in the purchase of the properties, in what  
19 respect were you instrumental?

20 A. Well, we would -- I would find a  
21 property or he would find a property and we  
22 would check the property out prior to the  
23 purchasing the property and see if the  
24 investment made sense.

1                   He wasn't in the real estate  
2     business prior to '72, and at that time, I had  
3     already accumulated quite a few pieces of  
4     property and I was quite familiar with what the  
5     market was.

6           Q.       Did Goldberg then always collect  
7     the rents on these properties? Was he always  
8     responsible for that?

9           A.       On most of the properties he  
10    collected the money, yes.

11          Q.       And --

12          A.       Especially any of the properties  
13    that he was personally responsible for the  
14    financing on the properties.

15          Q.       He was always responsible for the  
16    maintenance of those properties as well?

17          A.       Well, we were both responsible. In  
18    case he had a problem, he would bring the  
19    problem to me if he couldn't -- you know, if he  
20    couldn't solve the problem, and we would kick  
21    it over and see what was required in order for  
22    a solution to the problem.

23          Q.       Normally, though, those functions  
24    would be performed with him absent any

1 problems?

2 A. Yes. He was capable of operating  
3 the properties.

4 Q. Who found most of the partnership  
5 property initially?

6 A. We both did. We knew the area. I  
7 was in the area when he came to the Lakeview  
8 area. I had been there before, and I had  
9 property, you know, in the Rogers Park area.

10 We used to make -- run the  
11 streets consistently to see what was available.  
12 We were in constant touch with real estate  
13 brokers there in the event a parcel came on the  
14 market. It was a partnership.

15 Q. Are you a real estate broker  
16 yourself?

17 A. No.

18 Q. What's your highest level of  
19 education?

20 A. I went to high school. I graduated  
21 from high school.

22 Q. Do you have any professional  
23 certifications?

24 A. No.

1 Q. Did you take any special courses in  
2 real estate or --

3 A. No.

4 Q. -- real estate management?

5 A. No.

6 Q. Did you ever take any business  
7 classes since graduation from high school?

8 A. No.

9 Q. How did you first meet Ken  
10 Goldberg?

11 A. Ken Goldberg came to me through a  
12 friend of his, and he didn't have any other  
13 real estate at the time and he was very  
14 inquisitive. He was getting out of the  
15 automobile business. He just hung on me.  
16 That's all.

17 Q. This was about 1971?

18 A. Around '72; '71, '72.

19 Q. Who was the bookkeeper for the  
20 partnership?

21 A. That was Buckman, B-u-c-k-m-a-n,  
22 Sidney.

23 Q. Was he hired by you or hired by Mr.  
24 Goldberg?

1           A.       He was hired by both of us in 1986  
2 I believe it was. Mr. Goldberg made these few  
3 changes on the tax return, and he went to a  
4 fellow by the name of Jutovsky,  
5 J-u-t-o-v-s-k-y, who I had never met up until  
6 maybe three months ago and he turned over the  
7 partnership account to him.

8           Q.       In '86?

9           A.       In '86, yes.

10          Q.       Who is Frank Mitten (phonetic), if  
11 you know.

12          Q.       Frank Mitten was the bookkeeper who  
13 Kenny worked with.

14          Q.       That was somebody that --

15          A.       That's other than Jutovsky, who was  
16 a CPA.

17          Q.       What was Buckman? Was he a CPA?

18          A.       He was a bookkeeper, Buckman, but  
19 he handled the books. He was the person the  
20 partnership actually hired at the time, and  
21 then when Kenny wanted to make the changes on  
22 the tax return, Mr. Buckman wouldn't do it, so  
23 he went over to Jutovsky.

24          Q.       What duties did Mitten do that were

1 different from Buckman?

2 A. What was -- one was the bookkeeper.  
3 The other was the accountant.

4 Are we getting into all this  
5 other stuff?

6 Q. Does Frank Mitten still work for  
7 the partnership?

8 A. No.

9 Q. Does Buckman still work for the  
10 partnership?

11 A. No.

12 Q. Does Jutovsky still do work for the  
13 partnership?

14 A. No.

15 Q. Who physically kept control over  
16 the partnership records?

17 A. Mr. Goldberg.

18 Q. So Mitten or Buckman didn't  
19 maintain the day-to-day records, possess them?

20 A. No.

21 Mr. Goldberg was the custodian  
22 of all the records. He had all the knowledge  
23 as to what was going on with those particular  
24 properties.

1 Q. So if any books or records exists,  
2 they would be in the possession of Mr.  
3 Goldberg?

4 A. That's right.

5 Q. You turned over anything you had, I  
6 assume, relating to the partnership?

7 A. I turned all the papers over to --  
8 whatever I might have collected, you know, I  
9 turned it over to my accountant, and my  
10 accountant worked, you know, with Mr. Buckman  
11 as well as Mr. Jutovsky.

12 Q. Who was your accountant?

13 A. My accountant is Arthur Taub &  
14 Company, and the CPA that handled my account is  
15 a girl by the name of Barbara Fishbein.

16 Q. How long have they been your  
17 accountants?

18 A. For 40 years.

19 Q. Who is Ernie Howard?

20 A. Ernie Howard is a -- he's got some  
21 real estate and he does some work for me. He  
22 spots problems out on the street.

23 Q. Does he work for the partnership,  
24 the Wolf-Goldberg Partnership?

1           A.       No. He works for himself. He does  
2       a little investigative work with some other  
3       people, and he does some work for me. He is  
4       not on a full-time schedule.

5           Q.       When you say he works for you, he  
6       works for you separate and apart from the  
7       partnership?

8           A.       Yes.

9           Q.       So he was not involved in the  
10      management of --

11          A.       No management of the properties.

12          Q.       -- of the partnership property?

13          A.       No.

14          Q.       Did you have any other employees?

15          A.       He may have gone over to some of  
16      the buildings. I don't know. I am not sure  
17      of, you know, what buildings he did maintenance  
18      work on or he spoke to somebody on.

19          Q.       So he may have been involved in  
20      maintenance of partnership properties perhaps?

21          A.       He didn't know maintenance. He was  
22      like a troubleshooter. If something had to be  
23      done, he would let me know, and I would get  
24      either a carpenter or plumber or someone to go

1 over there.

2 If something was not  
3 structurally sound, I would get a call. I  
4 would send -- I would send him out, or I would  
5 go out myself and check on the stuff.

6 Q. Was Mr. Howard paid by the  
7 partnership for doing that work?

8 A. No.

9 Q. Was anybody else employed by the  
10 Goldberg-Wolf Partnership?

11 A. Just Goldberg. Goldberg was the  
12 troubleshooter and Goldberg was the manager and  
13 Goldberg was the collector.

14 Q. Focusing your attention upon 1318  
15 through 1322 North Western, I know that you  
16 have admitted that you own that property.

17 A. I believe I admitted that the  
18 partnership owns the property.

19 Q. Okay.

20 The -- for the time being,  
21 whether you owned it or whether it was the  
22 partnership --

23 MR. SCHULMAN: Objection. The  
24 answers are that the partnership owns the

1 property of which Mr. Wolf was a 50 percent  
2 owner of the partnership. So don't say no  
3 matter what it is because that's what the  
4 answer says.

5 BY MR. EX:

6 Q. You held your interest in this  
7 property in January of '86, correct?

8 A. The partnership still has the  
9 partnership, yes.

10 Q. As of January of '86?

11 A. The partnership as of 1986 was the  
12 owner of that property.

13 Q. It still is currently the owner?

14 A. And it still is the -- yes, and it  
15 is being managed by the trustee on the  
16 litigation.

17 Q. Do you know -- when did you buy the  
18 property?

19 A. I believe sometime in 1981 or 1982.

20 Q. I want to show you what has been  
21 marked as Government Exhibit H. I ask you to  
22 take a look at that.

23 (WHEREUPON, a brief pause  
24 was taken.)

1 THE WITNESS: 1982.

2 BY MR. EX:

3 Q. Do you recognize this document, H?

4 A. Yes.

5 Q. Is this the trustee's deed for the  
6 purchase of the property?

7 A. Yes.

8 Q. It has the -- it is conveyed and  
9 deeded to Gustav Sierawski, correct?

10 A. Yes.

11 Q. I know you have already in the  
12 interrogatory indicated he was a nominee of  
13 yours.

14 A. That's true.

15 Q. On the purchase of this property,  
16 that name was used as a nominee for you,  
17 correct?

18 A. Yes. For the partnership, not for  
19 me.

20 Q. It says in care of Commercial  
21 Management, also?

22 A. That's about right.

23 I am telling you it was a  
24 partnership property. It was purchased as a

1 partnership property. It was recorded as a  
2 partnership property. It is still a  
3 partnership property.

4 Q. So you purchased it as of August  
5 30th of '83 then?

6 A. Yes.

7 Q. Since that date, you have held an  
8 interest in it --

9 A. Yes.

10 Q. -- to date?

11 You already indicated you  
12 never signed any agreement with Mr. Sierawski  
13 concerning that deed?

14 A. That's right.

15 Q. Do you know if Mr. Sierawski was  
16 aware of the use of his name on that deed?

17 A. I don't believe so.

18 Q. Do you know if he gave his  
19 permission?

20 A. I don't believe so.

21 Q. Did he in any way assign any rights  
22 to you concerning that deed?

23 A. No.

24 Q. This property was never purchased

1 in the name of the partnership, correct?

2 A. No, it wasn't.

3 Q. It was never put in the name of  
4 Kenneth Goldberg either, was it?

5 A. That's true.

6 Q. How did you come to buy this  
7 property? Do you recall?

---

8 A. A broker came to me and they had --  
9 his client had an interest in the property.  
10 There were some liens on the property, and the  
11 woman wanted to get rid of it because she was  
12 an elderly woman.

13 Q. Who was the broker? Do you recall?

14 A. I think I gave you that name. I  
15 can't remember it now.

16 Q. I don't recall seeing it?

17 THE WITNESS: Off the record.

18 MR. SCHULMAN: You told me.

19 THE WITNESS: Do you remember what  
20 I told you?

21 MR. SCHULMAN: Yes.

22 THE WITNESS: Are you going to tell  
23 me?

24 MR. SCHULMAN: He never asked this

1 question before so --

2 THE WITNESS: Let him have it.

3 Suchier, S-u-c-h-i-e-r.

4 BY MR. EX:

5 Q. Do you know where they are located?

6 A. They were on Clark Street if I  
7 remember. Somewhere around Clark and Ontario.

8 Q. Was there the name of a particular  
9 broker there that you remember dealing with?

10 A. There were two brokers. He was one  
11 of the brokers. There was another guy there.  
12 I forget his name. I don't remember.

13 Q. You say they approached you  
14 personally?

15 A. Yes.

16 Let me see if there is  
17 something on this deed here that might help  
18 you. I mean, if you want to really know who  
19 owned the property previously -- is that what  
20 you are trying to find out?

21 Q. I am trying to find out how you  
22 became aware of the property.

23 A. These brokers -- they come to me  
24 all the time people that want to get rid of,

1 you know, properties. So this was just real  
2 estate.

3 Q. Besides this deed which has been  
4 marked as Exhibit H, was there ever a purchase  
5 contract signed?

6 A. I don't have a copy of it if there  
7 was.

8 Q. Did you ultimately buy this through  
9 the broker?

10 A. I bought it through the broker,  
11 yes.

12 Q. You didn't buy it at a tax  
13 scavenger or annual sale, did you?

14 A. No.

15 This property was -- it had  
16 problems with the title on the property, and it  
17 was just one of several that I bought from the  
18 same people.

19 Q. How much did you pay? Do you  
20 recall?

21 A. I don't remember. It wasn't that  
22 much.

23 Q. Is there anything that would  
24 refresh your recollection as to what you paid

1 or would give you the knowledge?

2 A. If you contacted the bank, possibly  
3 they would have a copy of something.

4 Q. Let me show you what's been  
5 previously marked as Exhibit I-2, which for the  
6 record is a copy of your 1985 U.S. individual  
7 income tax return.

8 Now, let me just say as a  
9 caveat, I did not photocopy the whole tax  
10 return. You know it is voluminous. What I  
11 tried to do was copy what I thought were  
12 pertinent aspects that would relate to the  
13 property at issue in this lawsuit in any way.

14 If at any time you feel the  
15 need to have to look at the original tax  
16 returns, we have got them, and I can get them  
17 out and you can look at the originals if you  
18 wish.

19 I want to direct your  
20 attention on this tax return to Statement 7,  
21 which is on the third to last page. I want --

22 A. Right.

23 Q. This is a Statement 7, which is  
24 rent and real income, and then there is an

1 entry here for depreciation calculation of land  
2 at 1320 through 22 Western. Then there is also  
3 a land and building. It is broken down it  
4 seems to be in two categories under cost or  
5 basis.

6 Do you see that?

7 A. Yes.

8 Q. It comes out to be a total of  
9 \$15,000 as a basis.

10 A. I see.

11 Q. I am not an accountant, and I don't  
12 want to put words in your mouth, but based on  
13 this tax return, would it be correct to assume  
14 that the cost to you of purchasing this  
15 property was a total of \$15,000?

16 A. I would say the cost and the  
17 repairs of the building probably would have ran  
18 that kind of money.

19 Q. That cost and basis accurately  
20 reflects what you paid for the property?

21 A. Plus whatever repairs went into it,  
22 yes. I think the roof was down at the time I  
23 picked it up.

24 Q. Mr. Wolf, I want to show you what's

1        been marked as Exhibit J, which for the record  
2        seems to be a notice issued by the county about  
3        redemption of delinquent taxes.

4                        I ask you if you have seen  
5        that before.

6                                (WHEREUPON, a brief pause  
7                                was taken.)

8                        THE WITNESS: I don't remember.

9        BY MR. EX:

10                Q.        This was a document that was  
11        produced to me through your attorneys.

12                        Do you know what this document  
13        is as you look at it, sir?

14                A.        It is a notice that was sent to the  
15        Cosmo Bank in reference to delinquent taxes  
16        from '62 to '78.

17                Q.        So at the time that you purchased  
18        the property, there were delinquent taxes --

19                A.        Yes.

20                Q.        -- correct?

21                        Do you know who held -- who  
22        had purchased the certificate of the taxes at  
23        that time?

24                A.        We probably did, Illinois

1 Investments, the partnership.

2 Q. So you bought the certificate and  
3 you also just bought the property outright?

4 A. After we bought the certificate,  
5 then we bought it.

6 Q. Just for my information, why did  
7 you do both?

8 A. Well, because the building was  
9 falling down. It was in bad shape. So we  
10 tried to get -- see, you don't get possession  
11 of the property when you buy the taxes. You  
12 have to wait until you go through the process.

13 So once we send the notices  
14 out, then they would contact us that they are  
15 supposed to pay the taxes. It is a notice to  
16 them for them to go down and pay the taxes.  
17 You have to do that before you are entitled to  
18 a deed.

19 Q. Did you purchase those taxes before  
20 or after you were approached by the broker?

21 A. Before.

22 Q. So you were aware of the property  
23 before you were even approached by the broker  
24 then?

1 A. Oh, yes.

2 Q. So the purpose of not waiting it  
3 out was that you wanted to take possession of  
4 the property right away?

5 A. The property had a problem with the  
6 roof, and if I recall, at the time we wanted to  
7 see if we could get in there sooner so that we  
8 could -- otherwise, the building would have,  
9 you know -- could have been irreparable. If  
10 that would have happened, then we would have  
11 had the right to go back and get our money back  
12 under the tax plan.

13 Q. Do you remember whether or not you  
14 ever personally inspected this property prior  
15 to its purchase?

16 A. Just the visual inspection and  
17 checked out the location of the property.  
18 That's all.

19 Q. Was that inspection, that visual  
20 inspection, was it done before you purchased  
21 the tax certificate?

22 A. Yes.

23 Q. So it was done before the broker  
24 even approached you?

1 A. Oh, yes.

2 Q. Did you ever do another inspection  
3 of it prior to purchasing it outright?

4 A. No.

5 Q. So after the broker approached you  
6 for the sale, you didn't go back to it again?  
7 You just based on your initial inspection?

8 A. Right, initial inspection.

9 Q. When you went for the initial  
10 inspection, did anybody go with you?

11 A. I don't remember.

12 Q. In terms of a year, do you know  
13 whether you would have done that inspection --  
14 is there anything about this document that  
15 would tell you when you think you would have  
16 purchased the certificate?

17 A. Well, sometime in 1981 I would have  
18 inspected the property. Maybe 1980.

19 Q. So you don't know whether someone  
20 was with you when you first inspected it?

21 A. No.

22 Q. When you look at that Exhibit J and  
23 it says in order to redeem the property you  
24 would have to pay \$10,913.62, that's not what

1 it cost you to purchase the certificate, was  
2 it?

3 A. No.

4 Q. That was something discount to  
5 that?

6 A. Yes. That's what they would have  
7 to come up with in order to redeem it.

8 Q. Do you have any idea what it cost  
9 you to purchase the tax certificate?

10 A. No.

11 Q. Was that cost reflected in the tax  
12 return, any of your tax returns? Do you know?  
13 We had just established that you thought the  
14 \$15,000 of the cost basis of depreciation was  
15 the basic cost of what you purchased it for.

16 A. That was the cost of the quit claim  
17 as well as the repairs that had to go into the  
18 building.

19 Q. So as far as you know, that didn't  
20 reflect any certificate costs?

21 A. No.

22 That's 1981. I wouldn't  
23 remember. You are asking me questions that,  
24 you know, I can't be positive about it. It

1 might have included the cost of the  
2 certificate. I don't know.

3 Q. I am just asking you to answer what  
4 you know. If you don't know --

5 A. I really don't.

6 Q. When you went and inspected the  
7 property at the time or just prior to your  
8 purchasing the tax certificate, did you happen  
9 to notice whether or not anybody was occupying  
10 the building on the property?

11 A. It was occupied by A-Chemical  
12 Company.

13 Q. Was it in fact occupied when you  
14 purchased it?

15 A. Yes.

16 Q. That was an existing tenant?

17 A. Yes. That was the tenant that was  
18 put in there by the previous owner.

19 Q. Prior to your purchasing the  
20 property -- I am going to refer to 1318 through  
21 1322 North Western as the property from here  
22 out when I use that term.

23 When you purchased the  
24 property -- before you purchased the property,

1 did you look at a title report?

2 A. No.

3 Q. Were you aware of how the property  
4 was zoned prior to purchasing it?

5 A. Prior to purchasing it, I may have  
6 checked the county recorder's documents or I  
7 might have, you know, brought down the title  
8 search at the time, but I really don't  
9 remember. I made some inquiry into it, and I  
10 know that there was some problems with the  
11 title.

12 Q. But you don't remember the exact  
13 nature of the title inquiry you made?

14 A. I don't.

15 Q. Did you ever enter the building  
16 prior to purchasing it?

17 A. Never.

18 Q. You didn't hire anybody to come in  
19 to inspect the property for you, did you?

20 A. No.

21 Q. Did you interview or talk to any  
22 neighbors in the neighborhood surrounding  
23 A-Chem prior to purchasing it?

24 A. No.

1 Q. Did you inquire as to whether  
2 A-Chem had any necessary business permits prior  
3 to purchasing the property?

4 A. Well, the man had been in business  
5 there for years prior to my acquiring the quit  
6 claim deed, and I know that there was a problem  
7 with the roof and I had somebody repair the  
8 roof. I don't remember ever going into this  
9 particular piece of property for any particular  
10 reason.

11 Q. My question is do you remember ever  
12 checking out or trying to verify whether the  
13 tenants, A-Chem, had all the necessary business  
14 permits it would have needed.

15 A. No.

16 Q. But you were aware that this A-Chem  
17 was the tenant, though, before you bought it?

18 A. Yes.

19 Q. You knew that was who was occupying  
20 it?

21 A. Yes.

22 Q. Did you know what the nature of  
23 A-Chem's business was prior to purchasing it?

24 A. No.

1 Q. So you didn't know it was a  
2 chemical business?

3 A. I knew by the name that they  
4 operated under A-Chemical, but I didn't know  
5 what they were doing inside the place there. I  
6 had no concept of what they were doing.

7 Q. So you didn't know what types of  
8 chemicals, if any, were housed in that  
9 building?

10 A. No. I had never gone into the  
11 building prior to purchasing it.

12 Q. Do you know how long A-Chem was in  
13 business prior to purchasing?

14 A. As I understand, they were five  
15 years prior to that there.

16 Q. How did you come to that  
17 understanding?

18 A. The broker told me that.

19 Q. When you made the investment of the  
20 \$15,000 --

21 MR. SCHULMAN: Objection. We have  
22 gone through it now three times that the  
23 \$15,000 on the tax return is a combination, as  
24 he remembers it, of the purchase price and the

1       repairs that he put into it.

2                       You have now also established  
3       that that might also include part of the  
4       certificate purchase. So when you characterize  
5       the purchase price at \$15,000, please don't.

6                       MR. EX: I thought I used the term  
7       investment.

8                       MR. SCHULMAN: No. You said the  
9       purchase price.

10       BY MR. EX:

11               Q.       The \$15,000 investment, Mr.  
12       Goldberg didn't contribute any of that money to  
13       you, did he?

14               A.       Yes, he contributed part of the  
15       money on the taxes and the -- he contributed --  
16       I don't remember. I don't remember if he put  
17       the money in, but it would reflect under the  
18       tax return.

19               Q.       You don't know whether he did or  
20       not?

21               A.       No, I don't remember. He put money  
22       into certain buildings that were partnership,  
23       and I carried certain buildings that were  
24       partnership.

1 Q. I am only wanting to focus your  
2 attention on this particular property.

3 A. Good.

4 Q. And your answer is you don't know?

5 A. I don't know.

6 Q. When you bought -- when this  
7 property was purchased and the deed that we  
8 were looking at was obtained, was Mr. Goldberg  
9 aware of the purchase of the property at that  
10 time?

11 A. Oh, sure.

12 Q. Do you remember when the first time  
13 you discussed this property with Mr. Goldberg  
14 was?

15 A. When we first purchased the  
16 certificate, which would have to be sometime in  
17 '80, 1980.

18 Q. When you purchased the property,  
19 was A-Chem a tenant on the property the whole  
20 time until there was a fire ultimately on the  
21 property?

22 A. Yes.

23 Q. They were the tenant there from the  
24 time you purchased in 1982 until the time of

1 that fire?

2 A. They were a tenant that was put in  
3 there by the previous owner.

4 Q. Did you ever personally visit  
5 A-Chem between the time that you purchased the  
6 property and the time that the fire occurred in  
7 January of '86?

8 A. No.

9 Q. Were you ever made aware of what  
10 the nature of their business was after the  
11 purchase of the property?

12 MR. SCHULMAN: Objection. This has  
13 been asked and answered.

14 MR. EX: I asked him before he  
15 purchased it. Now I am asking him after he  
16 purchased it.

17 THE WITNESS: No.

18 BY MR. EX:

19 Q. Was there any written lease  
20 agreement with A-Chem after you bought the  
21 property?

22 A. I don't remember.

23 Q. You don't have any such documents,  
24 though, correct?

1           A.       I may have something. I don't  
2 know. I don't remember.

3           Q.       I want to direct your attention  
4 back to this document, Exhibit A, which was the  
5 document production request and turn to Page 2.

6                   This is Request No. 2 about  
7 all documents which relate to any contractual  
8 relationship with certain entities entered into  
9 with A-Chem including but not limited to lease  
10 agreements, and the answer is defendant has  
11 none.

12          A.       I have none in the file.

13          Q.       You still stand by that answer; is  
14 that correct?

15          A.       I don't remember. I stand by the  
16 answer. If I didn't turn it over to them, it  
17 wasn't in the file when I looked at it.

18          Q.       So as you sit here today, if you  
19 had it, it would have been turned over?

20          A.       Yes, because the entire file went  
21 over there.

22          Q.       Do you know what the rent was from  
23 A-Chem?

24          A.       You have that. I don't remember.

1 You have it in the tax return.

2 Q. So just for speed here, in the '84  
3 tax return it was reported as \$17,750.

4 A. That's possible.

5 Q. And '85, \$21,000 --

6 A. That's possible.

7 Q. -- in your personal tax return.

8 A. Yes.

9 Q. Does that sound in your mind like  
10 that would be the proper amount?

11 A. If that was there, that's what it  
12 was.

13 Q. William Berke had no interest in  
14 this property; is that correct?

15 A. That's true.

16 Q. Who paid the taxes on the property?

17 A. The taxes on the property?

18 Q. Correct.

19 A. If the taxes would have been paid,  
20 it would have been paid by Illinois

21 Investments.

22 Q. Illinois Investments?

23 A. That's right.

24 Q. Why would Illinois Investments have

1 paid for them?

2 A. Because it was a partnership  
3 property.

4 Q. Illinois Investments pays the taxes  
5 on the partnership property?

6 A. Yes. That account would have paid  
7 it. It would have come out of an Illinois  
8 Investments account.

9 Q. Who maintains the checking account  
10 records for Illinois Investments?

11 A. Kenneth Goldberg.

12 Q. Do you know if he personally  
13 maintained, or did he have a bookkeeper?

14 A. You know the bookkeepers that he  
15 had. Those are his bookkeepers. He used  
16 Mitten and he used Jutovsky. Depended upon the  
17 time, the date.

18 '86 he was already -- I think  
19 Jutovsky made out the '84 and '85 tax returns.

20 Q. So it would have been Jutovsky who  
21 would retain records?

22 A. He would have had the records.

23 Q. Mitten --

24 A. Right, of checks.

1 Q. Of check registers or any other  
2 type?

3 A. Right.

4 Q. Record of payment of those tax  
5 returns, he would have those?

6 A. Yes.

7 Q. So you don't maintain them or have  
8 access to them?

9 A. No, sir.

10 Q. Do you know if the bankruptcy  
11 trustee has possession of all those records  
12 currently?

13 A. As I understand it, he does, yes.  
14 He's got everything else there.

15 Q. To your knowledge, were all the  
16 taxes paid on the property?

17 A. I don't know.

18 Q. Who is Joe Berke?

19 A. Joe Berke is my brother-in-law.

20 Q. Was he ever involved in this  
21 property in any way?

22 A. No.

23 Q. Was he ever responsible for paying  
24 taxes?

1           A.       This is strictly a partnership  
2 property. If the taxes were paid, it would  
3 have been paid through the partnership. It  
4 would have been indicated on the partnership.

5           Q.       Did Ernie Howard ever manage this  
6 property in any way?

7           A.       He may have gone over there. I  
8 don't know.

9           Q.       Did he ever -- was he ever  
10 responsible for collecting the rents?

11          A.       He may have been responsible for  
12 repairing the roofs.

13          Q.       Do you know if he was ever  
14 responsible for collecting the rents from  
15 A-Chem?

16          A.       I don't believe so.

17          Q.       Did Ernie Howard have any interest  
18 in this property, ownership interest in this  
19 property?

20          A.       No.

21          Q.       The title has not changed in any  
22 way since Exhibit J in front of you?

23          A.       That's right.

24          Q.       That still is the record title as

1 far as you know?

2 A. I believe so, yes.

3 Q. Property hadn't been sold to Ernie  
4 Howard; is that correct?

5 A. No. He was interested in the  
6 property, but it was never sold to him.

7 Q. Were the taxes on this property  
8 ever sold to your knowledge?

9 A. To my knowledge, the taxes were  
10 sold, yes.

11 Q. Do you know who purchased them?

12 A. I don't know who purchased them,  
13 but if you get in touch with Mr. -- I can find  
14 out for you if you want me to. This is all  
15 being, you know -- if you call the trustee, he  
16 can explain that to you. He has all those  
17 files.

18 Q. I show you what's been marked as  
19 Exhibit M. For the record it is a May 10, 1988  
20 letter from the Office of the County Clerk to  
21 CMC 1320 Western.

22 Have you ever seen that  
23 document?

24 A. Yes.

1 Q. Do you know if you saw it sometime  
2 on or around the date that it was written back  
3 in '88?

4 A. I may have seen it, yes.

5 Q. Does this letter in any way  
6 indicate to you when the taxes might have been  
7 sold?

8 A. It indicates that the taxbuyer is  
9 interested in purchasing the taxes and the  
10 county has a duty -- when they get an inquiry  
11 from a taxbuyer or from an individual that they  
12 want to buy the taxes, then they have a duty to  
13 mail a letter to you and advise you that  
14 somebody is out there to buy the taxes on the  
15 property.

16 Q. Was there a reason why the taxes  
17 were not being paid?

18 A. The reason that the taxes were not  
19 being paid was because we were trying to  
20 straighten out the title on the property.  
21 There was some problems with the title.

22 Q. What problems?

23 A. I don't remember.

24 Q. Who was trying to straighten those

1 problems out?

2 A. Mr. Goldberg and myself.

3 Q. Do you remember what efforts were  
4 taken to try to straighten it out?

5 A. No.

6 Q. Did you in fact ever correct those  
7 problems?

8 A. We were in the process of doing  
9 something about it when we were advised that  
10 they had this fire there.

11 You are talking about five  
12 years ago. I don't remember now what we were  
13 doing. I know that what we were doing to get  
14 the title straightened out stopped when the  
15 building was damaged by the fire.

16 Q. So at that point you stopped paying  
17 taxes?

18 A. I don't remember.

19 Q. Drawing your attention back to  
20 Exhibit H, which is the deed, by looking at  
21 that document, is there anything that indicates  
22 to you what the problem or any problems that  
23 you were referring to in the title would be?

24 A. No.

1 Q. Can you tell me why the title was  
2 put in Gustav Sierawski's name?

3 A. It was put in because we were in  
4 the process of clearing up the title, and he  
5 was just used as a nominee at the time being.

6 Q. Was there ever any intention to  
7 change the titleholder at that time?

8 A. Certainly.

9 We were going to proceed to  
10 get the deed through a tax deed and then the  
11 title would have come down in the name of the  
12 Illinois Investments or something of that  
13 nature depending upon, you know, what we were  
14 going to do once the title was cleaned.

15 The person that was in the  
16 property, he was interested in the property as  
17 well as we were getting inquiries from other  
18 people to buy the property if the title would  
19 have been cleaned. So we would have  
20 straightened out the title and at that point we  
21 would have sold the property.

22 Q. You would have changed from Gustav  
23 Sierawski? Is that what you are saying?

24 A. Yes.

1 Q. But you never did take those steps  
2 to do that?

3 A. We didn't do it.

4 Q. Do you know a Norman Oyen, O-y-e-n?

5 A. No.

6 Q. Do you know a business called Tax  
7 Pac, Inc.?

8 A. That's one of the taxbuyers  
9 downtown.

10 Q. Who is he? Do you know who owns  
11 Tax Pac?

12 A. No. He is one of --

13 Q. Do you know if its a corporation?

14 A. It is another taxbuyer.

15 Q. Do you have any ownership interest  
16 in either of those companies?

17 A. No.

18 Q. You did not buy back the tax  
19 certificates, did you?

20 A. I bought the tax certificate  
21 initially.

22 Q. Initially, but since you stopped  
23 paying the taxes after the fire?

24 A. No. That's why all the taxes are

1 due now.

2 Q. You did not attempt to purchase a  
3 tax certificate at that point, did you?

4 A. No.

5 Q. There was a fire initially on  
6 January 26th of 1986. Do you understand that?

7 A. Yes.

8 Q. There was also a second fire, in  
9 fact, that occurred on June 2nd of 1986. Are  
10 you aware of that?

11 A. No. I only thought there was one  
12 fire there.

13 Q. Do you know if the property was  
14 insured when you purchased it?

15 A. It may have been. I don't know.

16 Q. Let me show you what has been  
17 marked as Exhibit N and ask you to take a look  
18 at that.

19 (WHEREUPON, a brief pause  
20 was taken.)

21 THE WITNESS: What is it that you  
22 want to know about this?

23 BY MR. EX:

24 Q. Have you seen this document before,

1 sir?

2 A. Yes.

3 Q. Okay.

4 It is an endorsement, an  
5 insurance endorsement, what looks to be from  
6 United National Insurance Company, and then  
7 there are a couple of invoices also from the  
8 company payable name United National. Then  
9 there is a transmittal notice as the last page  
10 from Nordstrom Agency.

11 Does this refresh your  
12 recollection as to whether or not the property  
13 was ever insured when you purchased it?

14 A. This is probably after we purchased  
15 it. We had a policy on it in 1982, but it --

16 Q. Was this a new policy, or this was  
17 an existing policy in which you wanted to add  
18 the property to?

19 A. There was an existing policy that  
20 we wanted to -- I'll be frank with you. I  
21 don't remember. It is the policy that ran out  
22 in 1982. Then we never -- I don't believe we  
23 had any insurance after that on the property.

24 Q. So you think it was only insured --

1 A. For the one year.

2 Q. Was it insured through United  
3 National Insurance Company? There seems to be  
4 some handwriting notation.

5 A. They had insurance on a bunch of  
6 the property that we had owned.

7 Q. They meaning who, Nordstrom Agency?

8 A. Yes.

9 Q. Were they your insurance agents?

10 A. At the time they were in 1982.

11 Q. Was there a particular agent that  
12 you dealt with? There is on the last page  
13 something in reply please address Helen  
14 Anderson.

15 A. I believe she was one of the agents  
16 upstairs there.

17 Q. When was the last time you used  
18 Nordstrom Agency as your insurance agency?

19 A. It's been since 1983.

20 Q. Who have you replaced them with?

21 A. There was no insurance at the time.  
22 That's what the big complaint was at the time.

23 Q. Do you have an insurance broker  
24 that you used since Nordstrom?

1 A. Not on this property.

2 Q. For any properties?

3 A. We use different insurance  
4 companies all the time to keep the insurance up  
5 on those properties that we have encumbrances  
6 on them.

7 Q. What other insurance agencies have  
8 you used?

9 MR. SCHULMAN: I object to that.  
10 That is totally irrelevant to this case, to  
11 this piece of property. I instruct him not to  
12 answer.

13 MR. EX: Well, unfortunately,  
14 Counselor, even assuming that your relevancy  
15 objection is correct, I don't think that's a  
16 ground to instruct your client not to answer  
17 under the federal rules.

18 You can make your objection on  
19 the record, but I think he is obligated to  
20 answer the question.

21 MR. SCHULMAN: What relevancy does  
22 it have to this property at this time or at any  
23 time?

24 MR. EX: I don't know what relevancy

1 as to whether it was insured at the time or any  
2 time. I am trying to find out that it could  
3 have been insured elsewhere.

4 MR. SCHULMAN: What is the  
5 relevancy if it was insured? Your complaint  
6 has nothing to do with insurance.

7 MR. EX: It has everything to do  
8 with ownership information. If you want to  
9 withdraw your ownership defense, I'll withdraw  
10 the question.

11 MR. SCHULMAN: How does it have to  
12 do --

13 MR. EX: There is a law library  
14 upstairs. Maybe you can look up the case law.

15 MR. SCHULMAN: You have already  
16 looked it up since you seem to know, so I am  
17 asking why.

18 MR. EX: I'll give you my legal  
19 opinion. It has everything to do with who was  
20 the titleholder, and I think that it is a fair  
21 assumption that who is insuring the property  
22 and who is listed as the insured party has  
23 everything to do with ownership.

24 MR. SCHULMAN: Did Mr. Wolf not

1 already testify that he was through the  
2 partnership since 1982, and it stands to this  
3 date as the owner of the property? Did he not  
4 testify to that?

5 MR. EX: I believe he did, and he  
6 also has made some assertions that it was a  
7 partnership property.

8 MR. SCHULMAN: That's right.

9 MR. EX: Therefore, we have need to  
10 know. If the property has been insured, I want  
11 to know.

12 MR. SCHULMAN: That's fine.

13 But the question before, who  
14 are your insurance agents today for all your  
15 other properties besides this one is irrelevant  
16 to that question.

17 I thought you asked him all  
18 the questions about the insurance on this  
19 property and the agent that this document  
20 shows. Then after he answered those questions,  
21 your next question, which I objected to, was  
22 who are your other insurance agents for all  
23 your other properties. That was your question.

24 Now, if you want to change the

1 question and narrow it to this property, go  
2 ahead.

3 THE WITNESS: Let me say this  
4 because there is no sense arguing because  
5 nobody is trying to hide nothing.

6 This policy as it was written  
7 isn't worth a quarter because it is in the name  
8 of William Berke. William Berke.

9 BY MR. EX:

10 Q. Why was it written in his name?

11 A. I don't know; because somebody in  
12 the office gave them a list, and they insured  
13 every one of them. It doesn't make any sense.

14 The insurance company never  
15 would have paid off. There is no coverage on  
16 this piece of property. There hasn't been any  
17 coverage.

18 Q. Why wouldn't there have been  
19 coverage?

20 A. Because I don't insure all  
21 properties. The properties I am concerned  
22 about are the properties I use as collateral.  
23 I am self-insured. I don't insure everything.  
24 It is not economically sound to insure all this

1 stuff because you never get your money back for  
2 it.

3 Q. So you know for a fact as you sit  
4 here today --

5 A. Absolutely.

6 Q. -- that you did not insure this  
7 property?

8 A. I never insured this as it looks  
9 like in and out, and I am telling you that.  
10 There is no insurance. There hadn't been any  
11 insurance on the property, and there definitely  
12 was no insurance on the property at the time  
13 there was a fire.

14 Q. I don't understand.

15 If you say that it is  
16 economically unwise to have insured this  
17 property, why was there an effort made at this  
18 time to insure the property?

19 A. Because there was a list of  
20 properties in the office. Whoever was in the  
21 office there gave Nordstrom Insurance a request  
22 to insure the property. They could have sent  
23 this thing out and checked the property and  
24 canceled the policy.

1 I'll grant this policy didn't  
2 go to maturity, and if I would have caught it,  
3 I would have never insured it.

4 Q. Who are the --

5 A. This is the Lawndale National Bank  
6 5084. That has nothing to do with this piece  
7 of property. The Peterson Bank doesn't have  
8 anything to do with this piece of property.  
9 They are not a mortgage company on this piece  
10 of real estate. Check the title on it.

11 Q. When you refer to somebody in the  
12 office, who are you talking about?

13 A. I have had different girls working  
14 in the office. They may have given this.

15 Q. Which office?

16 A. At 6354 North Broadway when I was  
17 there.

18 Q. What businesses were operating out  
19 of there?

20 A. Commercial Construction, CMC, and  
21 Louis Wolf.

22 Q. Was the partnership Louis  
23 Wolf-Goldberg operating out of there also?

24 A. No.

1                   The partnership on a couple of  
2 businesses I operated from here, but the other  
3 stuff was managed by Goldberg out of 4550 North  
4 Broadway.

5                   There is no sense of arguing.

6           Q.       This effort to insure the property  
7 would not have been made by Goldberg?

8           A.       No. It would have been made by  
9 somebody in the office who don't know what they  
10 are doing.

11          Q.       In your office?

12          A.       Sure. If they had a fire there,  
13 they would have never collected on this policy.

14          Q.       So I take it then there is no  
15 insurance policy in existence that would relate  
16 to that endorsement, correct?

17          A.       That's right. If there was an  
18 insurance policy that covered that piece of  
19 property, it would have to be in the  
20 titleholder's name. Otherwise, they are not  
21 going to pay off.

22                   The principal or the lessee  
23 might have had an insurance policy, but you are  
24 telling me they don't have any coverage. If

1 they had some coverage, we would have all been  
2 better off.

3 Q. Now, when you look at that  
4 endorsement, you indicate the building value  
5 was a hundred thousand dollars and that the  
6 rental value was 9,000?

7 A. I don't know. I had nothing to do  
8 with this here. That's what she gave them.  
9 These are the figures that she gave them. They  
10 don't make sense.

11 Q. So you don't feel that the building  
12 value --

13 A. The \$9,000 is fine. The building  
14 as it stood there, if you had to replace the  
15 building, it was approximately 35,000 square  
16 feet. At 35,000 feet, \$40 a square foot, you  
17 are talking about \$200,000. Depreciation  
18 probably would have been worth a hundred  
19 thousand dollars.

20 Do you understand me? So I  
21 mean, I don't know where this came from. I  
22 know it doesn't make any sense. Nobody ever  
23 sent them \$179 for this policy.

24 Q. It would have been better for you

1 not to have a policy. So if the hundred  
2 thousand dollar building burned down, it made  
3 more sense not to have it insured?

4 A. That's right because the percentage  
5 of fires that you have are minimal. That's how  
6 insurance companies buy these buildings, and  
7 these errand boys that are running up and down  
8 the streets, they end up with this type of  
9 litigation.

10 Q. So I take it that when this  
11 property had a fire in '86, you didn't collect  
12 any insurance proceeds on this; is that right?

13 A. Absolutely not.

14 Q. Now, when the building burned down,  
15 again, it is reflected in the 1986 tax return  
16 that I was reviewing when you produced them to  
17 me, you took a deduction for the loss of the  
18 building in the fire; is that correct?

19 A. I don't know. The accountant  
20 handled did.

21 Q. Okay.

22 I'll show you what's been  
23 marked as Exhibit I-3, which is your '86 tax  
24 return. If you look on Statement 5, which is I

1 think four pages from the back, it shows a  
2 Section 1231 gain and loss.

3 Do you see where I am  
4 referring to?

5 A. Yes.

6 Q. It says 1320-22 Western building  
7 demolished. So you took this as a loss on your  
8 tax return, correct?

9 A. I guess that's what she did, yes.

10 Q. Where it says date acquired '83, do  
11 you have any idea what that means?

12 A. No.

13 Q. Where it says date sold and there  
14 is an '86, do you know what that means?

15 A. No.

16 Q. Do you have any idea as you sit  
17 here today how those figures in terms of gross  
18 sales price and adjustments to basis were  
19 calculated?

20 A. No. You'd have to call her in and  
21 ask her.

22 Q. I am only asking for what your  
23 knowledge is.

24 A. I really don't know. I am not an

1 accountant.

2 Q. I only actually have '84 through  
3 '86 of your tax returns. The '83 was amended,  
4 and it was very abbreviated and didn't have any  
5 of the indications of prior partnership income  
6 or anything so I can't really speak to that.  
7 So I can only really focus on the years I have.

8 A. I'll help you all I can.

9 Q. What I wanted to do was make some  
10 reference from the partnership tax returns and  
11 see how they were reported in your personal tax  
12 returns.

13 A. You have to understand that I have  
14 been having a problem with getting the records  
15 from him, and that's what all this litigation  
16 is about.

17 If I didn't have the problem,  
18 if the man would have just sat down and worked  
19 the things out, I wouldn't have this problem,  
20 and my taxes would be right up to date. But I  
21 can't -- I can't ascertain what he is holding  
22 and what he has done or even what he may have  
23 spent.

24 I don't know what the hell the

1 man did over the years, but we are getting it  
2 straightened out, and if I get it straightened  
3 out, I'll bring it to you.

4 Q. You never amended your '84 through  
5 '86 tax returns?

6 A. I don't know. You have to check  
7 with the accountant. I don't know what she  
8 did.

9 Q. You said earlier you instructed her  
10 to provide all your tax returns from '82.

11 A. I told her to cooperate with you.

12 Q. There was never any amended tax  
13 returns that were provided to me, so my  
14 question is would you say that it would be a  
15 fair assumption that there were no amended tax  
16 returns filed for the years '84 through '86 --

17 A. I don't know.

18 Q. -- since they weren't provided to  
19 me?

20 A. I would say so, yes, but I don't  
21 know. I have no control over what she does,  
22 you know.

23 Q. When your accountants at -- Caplan,  
24 Taub was the name of the accounting firm?

1 A. When? Yes.

2 Q. When your CPA prepared your  
3 individual taxes, I assume they reviewed the  
4 partnership tax information, correct?

5 A. Once we went -- once he went to  
6 Jutovsky -- everything was fine as long as Sid  
7 Buckman had the returns. As soon as Jutovsky  
8 got the files, he was advised by Goldberg, you  
9 know, not to cooperate with my accountant, and  
10 my accountant sent him all kinds of letters.  
11 So, I mean, after that point, we really had no  
12 control over those partnership returns with Mr.  
13 Goldberg.

14 Q. Aside from whether you had control  
15 over them, my question is to your knowledge,  
16 did your CPA at Caplan, Taub review the  
17 partnership documentation, the K-1's and the K  
18 schedules?

19 A. They did subject to the three  
20 buildings that we were -- that were the  
21 controversy that came up.

22 Q. What were the three buildings that  
23 were the subject of controversy?

24 A. They would have to be on the

1 partnership return because we couldn't pick  
2 them up.

3 Q. Let me direct your attention back  
4 to the tax return for '86, which is Exhibit  
5 T-3. If you turn to the last page, there seems  
6 to be --

7 A. There it is right there.

8 Q. This seems to be a footnote. Is  
9 that what you are referring to as part of the  
10 incomplete K-1's and the partnership properties  
11 that weren't being added?

12 A. Yes.

13 Q. So as far as you know, those were  
14 all of the properties that were omitted from  
15 the '86 partnership information?

16 A. That's right. That's the  
17 information we were unable to obtain from him.

18 Q. Your accountants reviewed all that  
19 information and the K-1's, and you in  
20 combination with your accountants came up with  
21 the conclusion this is what was in dispute or  
22 missing?

23 A. That's right.

24 Q. Are there any other properties that

1 you believe besides those indicated on that  
2 footnote --

3 A. No.

4 Q. -- that should have been in  
5 dispute?

6 A. No.

7 Q. Just so that I understand, you have  
8 used Caplan and Taub from '82 on for your  
9 personal taxes?

10 A. From '48.

11 Q. Since 1948?

12 A. Yes.

13 Q. From '82 on, have you had the same  
14 accountant, Ms. Fishbein, I believe?

15 A. Yes.

16 Prior to that, I had a fellow  
17 named Jack Schwartz. He always took care of my  
18 account.

19 Q. From '82 on?

20 A. I think it is from '84 on.

21 Q. So Mr. Schwartz from was '82 to '84  
22 possibly?

23 A. If you are going back to '82, yes.

24 Q. So one of those two people would

1 have been reviewing all of the Goldberg-Wolf  
2 Partnership information?

3 A. Up until the problem with Jutovsky,  
4 there was nothing wrong with the partnership  
5 returns. Jack Schwartz did not handle the  
6 partnership. Sid Buckman handled the tax  
7 return. We had no problem.

8 When I couldn't get a copy of  
9 his tax return to fill out my own tax return,  
10 that's when my problems came up. I tried to,  
11 you know, get it settled with him, not have to  
12 go to court.

13 Q. Let's just take it from the time  
14 period of '84 from when Ms. Fishbein was  
15 involved with preparing the taxes. She looked  
16 back at all the partnership returns or at least  
17 the K-1's that were distributed from the  
18 partnership to you to report your income?

19 A. Yes.

20 Q. She reviewed all those documents,  
21 correct --

22 A. Yes.

23 Q. -- in helping you prepare your  
24 returns or coming to some conclusion that

1        somehow there were errors in the partnership  
2        returns? Is that accurate?

3            A.        Yes.

4                      She picked up in 1984 I  
5        believe it was, and I had been with her ever  
6        since. I think she picked up -- she picked up  
7        the '84 tax returns, so that must have been  
8        sometime in '85, right? '84 would have been  
9        handled in '85. You would have to ask her  
10       because I really -- I think she made up the '84  
11       tax return for me.

12            Q.        This Jutovsky who was doing the  
13        partnership returns, I take it that you don't  
14        fully approve of what he did in terms of his  
15        services for the partnership; is that correct?

16            A.        What he did was inaccurate. He is  
17        either negligent or -- I can't understand how  
18        he handled that.

19                      He took the properties off the  
20        '83 tax return, and he took them off as a draw  
21        and he gave them to Mr. Goldberg and Mr.  
22        Goldberg picked them up on his personal tax  
23        return.

24                      In my opinion, he got a letter

1 from Mr. Goldberg authorizing him to do that.  
2 He should have gotten a letter from me  
3 authorizing him to do that.

4 In that period of time, I was  
5 repairing those buildings. As long as I wasn't  
6 a partner on those buildings, I couldn't deduct  
7 them from my tax returns, those expenses.

8 Q. Did you ever sue Mr. Jutovsky?

9 A. Yes.

10 Q. Is that litigation still pending?

11 A. Sure.

12 Q. Where did you sue him, in the  
13 Circuit Court of Cook County?

14 A. Yes.

15 Q. The case hasn't been settled or  
16 hasn't gone to trial?

17 A. No.

18 My attorney that's handling it  
19 for me could give you whatever information  
20 you'd want in relation to that.

21 Q. Who is the attorney?

22 A. His name is Edward Berman,

23 B-e-r-m-a-n. If you want his phone number --

24 MR. SCHULMAN: He's got a

1 Sullivan's. He can look it up.

2 BY MR. EX:

3 Q. He is in Chicago?

4 A. Yes.

5 Q. You don't know what the case number  
6 is?

7 A. No, I don't know. Eddie will give  
8 you the information.

9 Q. Did an attorney named Robert  
10 Korenkiewicz, K-o-r-e-n-k-i-e-w-i-c-z, ever  
11 represent you in relation to any disputes you  
12 had with Mr. Jutovsky?

13 MR. SCHULMAN: Objection. You have  
14 told me twice that the issues in this case are  
15 ownership of the Western Avenue property and  
16 the innocent ownership defense which was  
17 raised.

18 Now, you explain to me how his  
19 dispute with Jutovsky goes to either one of  
20 those issues.

21 MR. EX: Sure.

22 If Jutovsky has documentation  
23 that relates in any way to this partnership.

24 MR. SCHULMAN: If Jutovsky has

1 documents which relate in any way to this  
2 partnership, then I believe the proper thing is  
3 to serve a subpoena on Mr. Jutovsky, and he  
4 will comply.

5 We have gone through, and Mr.  
6 Wolf has answered that all the documents in his  
7 possession or his accountant's possession  
8 except for '87 returns, which we have promised  
9 you, have been turned over.

10 Also, he has also said if his  
11 accountant does not have either the '82 returns  
12 or the amended returns, he will sign the  
13 authorization required for you to get them from  
14 the IRS.

15 Now, what Jutovsky has, who  
16 was never employed by Mr. Wolf, who has told  
17 you he has never been a representative of Mr.  
18 Wolf, has something, then don't waste our time.  
19 Serve a subpoena on him because that issue has  
20 nothing to do with Wolf, and if there is a  
21 document which either proves or disproves  
22 either your claim of Wolf's ownership or Wolf's  
23 claim of innocent ownership, then you have to  
24 get it from the person who has it.

1                   You know who it is. Go get  
2     it, but to ask questions about a lawsuit and  
3     people representing people in a lawsuit is  
4     totally irrelevant. I have let you go on long  
5     enough.

6                   We spent a whole hour before  
7     you ever asked a question about this property,  
8     and now you are back into the relationship  
9     between Wolf and Goldberg, which quite frankly  
10    leads me to believe that this deposition is  
11    more than it is cracked up to be because there  
12    have been certain, shall we say, subpoenas  
13    served by the Criminal Division of the U.S.  
14    Attorney's Office, and any more of these  
15    questions confirms my suspicion every time you  
16    ask a question that gets off the point that it  
17    is an attempt to get around Mr. Wolf's Fifth  
18    Amendment rights by using this deposition, and  
19    I'll start asserting those rights.

20                  MR. EX: You are free to assert any  
21     Fifth Amendment right you want.

22                  MR. SCHULMAN: Okay.

23                  MR. EX: I similarly am allowed to  
24     exercise rights under the Federal Rules of

1 Civil Procedure that allow me to use this forum  
2 as a discovery mechanism.

3 This is my deposition. If you  
4 have any qualms or problems with it, you are  
5 free to go and get whatever relief you feel you  
6 need from the judge.

7 Having said that, I am not  
8 going to get in here and dispute what I feel  
9 are my proper litigation tactics which have  
10 nothing to do with anything other than the  
11 scope of the issues that your client has made  
12 with regard to innocent ownership.

13 MR. SCHULMAN: That's correct.

14 MR. EX: Standing on that, whether  
15 or not that litigation I am inquiring into has  
16 anything to do with it, I am entitled to  
17 explore it to find out if there is anything  
18 that could lead to admissible evidence that  
19 could give me information about the property  
20 and the partnership itself.

21 MR. SCHULMAN: If you ask the right  
22 questions, you probably are, but to start off  
23 by asking and then saying that the reason I  
24 want to know this is because I want to know

1 from you, Mr. Wolf, if Jutovsky, who is not or  
2 has ever been an employee of Wolf and you have  
3 been told now is on the other side of the  
4 litigation before Judge James, has documents is  
5 not going to lead to it, and you know it as  
6 well as I sit here.

7 If you think Jutovsky has  
8 documents -- do you know Mr. Jutovsky's  
9 address?

10 THE WITNESS: He is someplace on  
11 Peterson Avenue.

12 MR. SCHULMAN: We'll provide you  
13 with his address, and you may subpoena and  
14 whatever documents he turns over, fine.

15 Then if you want to continue  
16 the deposition asking Wolf a question off of a  
17 document that some third party has, you know  
18 that he will be brought back in, and without  
19 any need of a court order, we'll voluntarily  
20 return and you can ask him a question on that.

21 All right? Now, if you want  
22 to go on about Western Avenue property, we are  
23 here.

24

1 BY MR. EX:

2 Q. Have you ever talked to Mr.  
3 Jutovsky personally?

4 A. No.

5 The only time I saw Mr.  
6 Jutovsky was in court when the trustee brought  
7 him in on a deposition. That was the first  
8 time that I saw Mr. Jutovsky.

9 Q. Has Mr. Jutovsky ever discussed  
10 with you or in your presence this property?

11 A. No.

12 Q. Let me show you what's been marked  
13 as Exhibit Q. Have you ever seen that letter  
14 before?

15 A. Yes, I did.

16 Q. Was that sent out with your  
17 authority?

18 A. Yes.

19 Q. I show you what's been marked as  
20 Exhibit P and ask you the same question after  
21 you have had a chance to look at it.

22 Have you seen that letter  
23 before?

24 A. Yes.

1 Q. Was that also sent out with your  
2 authority?

3 A. Yes.

4 Q. I take it you agree with the  
5 contents of those letters to the best of your  
6 knowledge?

7 A. To the best of my knowledge, that's  
8 basically where the problems started. I was  
9 just trying to protect myself.

10 Q. Have you ever personally looked at  
11 the partnership return of income forms that  
12 were prepared by Jutovsky known as Form 1065?

13 A. No.

14 Q. So you never looked at those?

15 A. No. The only thing that -- you see  
16 what happened was he sent a K-1 for when  
17 they --

18 Q. That's based on the 1065?

19 A. Here is what happened, Mr. Ex. He  
20 gave Kenny Goldberg the K-1 form.

21 Q. He meaning Jutovsky?

22 A. Jutovsky did, to bring over to  
23 Barbara Fishbein, and Kenny never came over  
24 there with the forms or with the breakdown of

1 the taxes.

2 It wasn't until I came over to  
3 the office that I asked Ms. Fishbein, I want to  
4 see. She contacted Jutovsky. Jutovsky sent  
5 him a copy of the K-1 form.

6 I came over there to sign my  
7 tax return, and I was going through until I  
8 finally came to the Goldberg-Wolf Partnership  
9 and I seen that they had the K-1 form, and I  
10 wanted to see the schedule they derived that  
11 return from, how those amounts --

12 Q. On the K-1?

13 A. K-1 came down because I never seen  
14 the schedule. I raised all kind of hell with  
15 Ms. Fishbein, you know, that she should have  
16 had that. She said she usually doesn't inquire  
17 into those things.

18 I said, well, I insist either  
19 you do that, get this information how he is  
20 accumulating these things because I have an  
21 idea how much income we were taking in. I  
22 don't have an idea how much expenses would be,  
23 but I know what tenants are in the buildings,  
24 so I should have an idea what the income is.

1                   As I looked through those --  
2           at that K-1 form, the amount just didn't seem  
3           right to me. So I insisted that she get that,  
4           and that's when she sent those letters.

5                   Finally when she threatened to  
6           send a letter into the IRS to see a copy of  
7           what has been filed, Kenny walks in with the  
8           schedule, and that's when I first noticed that  
9           those three buildings were off the tax return.

10                   That's when I blew my top. I  
11          went over to Kenny and I asked him to change it  
12          and put it where it belongs because I can't  
13          conduct -- so what I did --

14                   MR. SCHULMAN: That's enough.

15                   THE WITNESS: That's exactly what  
16          transpired.

17          BY MR. EX:

18                  Q.       To this day, have you ever looked  
19          at the underlying schedules that Jutovsky  
20          created?

21                  A.       Yes.

22                  Q.       When did you first look at those  
23          schedules? Let's try to use a time frame of  
24          1984 because that's the only tax return of

1       yours that I have.

2           A.       I would say sometime in -- I would  
3       imagine -- you have the letter that -- sometime  
4       in 1987. That's when my problem started.

5           Q.       So you started to review some of  
6       the schedules?

7           A.       From '84 and '85.

8           Q.       From '84 and '85 that were used as  
9       the basis of your K-1 statements back in '84?

10          A.       That's right.

11                   Now you are right on point.

12       '84, '85, and '86, and those buildings were off  
13       the tax return. Those buildings were on the  
14       tax return in '83. All but the 401 Armitage.

15          Q.       There was the tax return we were  
16       dealing with before, 1986 tax return, and we  
17       have already discussed those properties that  
18       you felt in that footnote -- the last page of  
19       the exhibit listed the properties that you  
20       thought off the schedule were not properly  
21       included?

22          A.       They were not only not properly  
23       included, but I had expenses on these  
24       properties, and those expenses have still not

1     been taken -- conducted on those particular  
2     properties.

3                     Otherwise I never would have  
4     sued him. I never had a piece of paper from  
5     the man. I always relied on the tax return.

6             Q.       Let me show you what's been marked  
7     as Exhibit O, which is a 1982 return of income  
8     1065 form, and then it has a K-1 also attached  
9     to it.

10                    There is a K-1 that is  
11     attached to it, but it appears to only have the  
12     K-1 of Kenneth Goldberg. It has a schedule  
13     attached to it.

14                    Let me just ask a question  
15     that revolves around the schedule, whether or  
16     not you ever had a chance to review that  
17     schedule or you have ever seen it or its ever  
18     been given to your accountant as far as you  
19     know.

20             A.       I believe this was given to our  
21     accountant, and I believe this was made out by  
22     Buckman.

23             Q.       So when you are referring to  
24     schedules, so that we are all on the same

1 page, you are referring to this handwritten  
2 chart?

3 A. Which would indicate the properties  
4 that I have in partnership with him, yes.

5 Q. The schedule lists the different  
6 properties?

7 A. Yes.

8 Q. Which are only designated by  
9 letters A through J with numbers underneath  
10 them, correct?

11 A. Yes.

12 Q. I assume the numbers somehow relate  
13 to property addresses. I don't want to make  
14 wrong assumptions.

15 A. Yes, that relates to those  
16 particular properties.

17 Q. So for instance 2924-6 is an  
18 address all the way through J, which is the  
19 4700, which relates to 4700 something?

20 A. Yes.

21 Q. Let me show you what's been marked  
22 as Exhibit O-1. It is the 1983 partnership  
23 return, and apparently is also -- excuse me --  
24 1065, which is prepared by Buckman.

1                   It also has a schedule, and it  
2       has a schedule on the second page which again  
3       is another handwritten type of schedule and it  
4       also goes A through N, correct?

5           A.       Yes. If you notice M -- did you  
6       notice M on that schedule?

7           Q.       Right.

8           A.       That 1322 relates to the property  
9       on Western Avenue.

10          Q.       Now, if you look by that M, it has  
11       a little asterisk on it, and if you go down at  
12       the bottom of that page, there is a little  
13       asterisk that says scavenger property not yet  
14       owned by partnership.

15                   Do you see it?

16          A.       Yes.

17          Q.       So that relates to that. So it is  
18       basically saying that that's property that's  
19       not yet owned --

20          A.       I don't know what he wrote. I  
21       don't know what it is.

22          Q.       -- in 1983?

23          A.       Possibly didn't have the property  
24       because there was some objections on the title

1 as I had understood it.

2 Do you know what I mean? We  
3 were of the opinion that we would proceed under  
4 that tax certificate.

5 Q. You are saying you weren't  
6 operating under that deed?

7 A. We were operating under the deed.

8 Q. The '82 deed?

9 A. We were going to perfect the deed  
10 and straighten out with it if there was any  
11 mortgages of record or if there was anything of  
12 record that we had to satisfy.

13 Q. Did you own any other property that  
14 you know of that relates or has an address at  
15 1322 other than on North Western?

16 A. No.

17 Q. The reason I ask you that question  
18 is because I understand you did not produce or  
19 have anything to do with the production of  
20 those partnership returns.

21 A. Wait a while. I did. I had  
22 something to do with the -- as long as Sid  
23 Buckman was there, I went there, and I  
24 acknowledged whatever was on these tax returns.

1 I had gone through them.

2 The income was brought out.

3 The expenses were brought out. If you look  
4 next to L -- you see where it says 4816?

5 Q. Yes.

6 A. That happens to be the Uptown  
7 Theater.

8 Q. Is there any sequence to those  
9 addresses? Do they have any rhyme or reason to  
10 them?

11 A. Not unless they came into  
12 existence.

13 Q. Chronologically?

14 A. Yes, as far as the years concerned.  
15 I don't know how he did it.

16 Q. The question I was about to ask is  
17 the follow-up.

18 When I was looking at the full  
19 '83 partnership return, each one of these  
20 properties A through N has an amortization  
21 schedule so that you can pick out what  
22 depreciation you are entitled to each year.

23 There was no schedule for that  
24 property? It ended at L?

1 A. I don't know.

2 Q. You don't have any knowledge about  
3 that?

4 A. No. You'd have to bring in Buckman  
5 how he did that. I don't know.

6 Q. But you are certain as you sit here  
7 today that that 1322 had to relate to the 1322  
8 on Western?

9 A. Absolutely. We don't have anything  
10 else at 1322.

11 Q. I draw your attention to what's  
12 been marked as Exhibit O-2, which is the '84  
13 U.S. Partnership Return of Income Form 1065,  
14 and there is also again another on Page 2, a  
15 handwritten schedule.

16 Have you ever seen that  
17 schedule before?

18 A. I don't remember.

19 Q. Do you see anywhere on that  
20 schedule any property listed at 1322 or 1318 or  
21 anything that would relate to the property in  
22 this case?

23 A. No. The reason it wouldn't -- is  
24 this '84?

1 Q. Right.

2 A. This is done by Jutovsky. Jutovsky  
3 will not contact us. He wouldn't accept any of  
4 the figures that -- he never contacted Barbara  
5 Fishbein as to what my expenses might have been  
6 nor the income that came from them couple  
7 buildings, and that's why that is not on the  
8 tax return.

9 He took it off the tax return.  
10 I believe he took the other ones off the tax  
11 returns on '84, the ones I was fighting with  
12 him about.

13 He has got 4750, but he  
14 doesn't have -- he still carried the one  
15 building, the 4750 business, the Uptown, which  
16 he took off in '85.

17 If you look at the '83 return,  
18 you wouldn't see that on there neither.

19 Q. All right.

20 I am going to show you what's  
21 been marked as O-3, which is the '85  
22 partnership year.

23 Again, similarly you will see  
24 on Page 2 and actually Page 3 there is another

1 handwritten schedule of properties. This is --

2 A. This is done by Jutovsky.

3 Q. Have you seen this schedule before  
4 to your knowledge?

5 A. No, I haven't seen this -- I have  
6 seen the schedule. This is the schedule that I  
7 have seen. So he was still carrying the Uptown  
8 on this schedule.

9 Q. Do you see -- after your lawyer has  
10 looked at it, do you see anything on this  
11 schedule that indicates the property in issue  
12 in this lawsuit being listed?

13 A. No, because we got no cooperation  
14 from Mr. Jutovsky whatsoever.

15 Q. I'll give you what's been marked as  
16 Exhibit O-4, which is again -- it is the next  
17 year, '86 partnership 1065. It also has on the  
18 third and fourth pages a schedule. Actually it  
19 is a three-page schedule. Schedules 1, 2, and  
20 3.

21 Have you seen those schedules  
22 before?

23 A. No. I don't see that one building  
24 on there.

1 Q. So it is not on this either?

2 A. No.

3 Q. Let me show you what's been marked  
4 as Exhibit O-5, which is the last partnership  
5 tax return that was produced to me, which is  
6 '87.

7 This Form 1065, again,  
8 Jutovsky prepared. It also has a Schedule 1,  
9 2, and 3 attached.

10 Have you seen that schedule,  
11 sir?

12 A. No, I haven't.

13 Q. This is the first time you have  
14 seen this?

15 A. Yes.

16 Q. Do you see the property in issue in  
17 this case listed on any of the schedules here?

18 A. No. It wouldn't be listed anyways  
19 because there was no building there, no income.

20 Q. So you believe in '87 that you  
21 first saw the schedules?

22 A. '87 is when we first started coming  
23 down on them. Now, those schedules as I see  
24 them, they were made out in October of '88

1 already. That's when he put the stuff  
2 together. This was '88, also.

3 Q. Directing your attention back to  
4 your '86 tax return, which I don't see on this  
5 copy which is only literally a copy.  
6 Unfortunately it doesn't have the date stamped,  
7 so I can't tell you when this '86 tax return  
8 was prepared. Maybe you can tell me based on  
9 your recollection.

10 If you look again to the last  
11 page, which is that footnote which we have  
12 already discussed, certain partnership  
13 properties which you objected to from you and  
14 your accountant's observations of having been  
15 left off the accounting in the K-1 estimates, I  
16 notice it doesn't include the property in issue  
17 here; is that correct?

18 A. That's correct.

19 Q. That's the same properties that  
20 these letters, Exhibits P and Q, were written  
21 in response to?

22 A. They were written off previously.  
23 When was it written off?

24 Q. December 30th of '87 and June 13th

1 of '88?

2 A. When was the fire?

3 Q. The fire was the January 26th of  
4 1986.

5 A. She wrote them off as destroyed, so  
6 they wouldn't show up on the '87. They  
7 wouldn't show up on the '88 either. There is  
8 no equity there anymore.

9 Q. '84 and '85, though, we established  
10 weren't on the schedules of the partnership  
11 returns.

12 A. '84 because of Mr. Jutovsky's  
13 bookkeeping procedure, and he wouldn't  
14 cooperate with her and he didn't accept any of  
15 the income or the bills on any of the items  
16 that I was manufacturing.

17 I had no control over what Mr.  
18 Jutovsky wrote down on his -- on the  
19 partnership return. I had no control over it.  
20 I never had no control over the checking  
21 account.

22 Q. In '83 as well also it was left off  
23 the schedules, correct?

24 A. It was left off the schedule after

1 Mr. Jutovsky would not cooperate with my  
2 accountant.

3 Q. At the time the '86 return was done  
4 and this footnote was prepared and at the time  
5 that those two letters, Exhibits P and Q, were  
6 prepared, you had knowledge at least in '84 and  
7 '85 that 1318-1322 was not included in the  
8 schedules that Mr. Jutovsky had prepared,  
9 correct?

10 A. That's correct.

11 Q. They were also omitted from this  
12 footnote with reference to 1322?

13 A. That's correct.

14 MR. EX: Off the record.

15 (WHEREUPON, a recess was  
16 taken.)

17 MR. EX: We are back on the record.

18 BY MR. EX:

19 Q. Mr. Wolf, the partnership is  
20 currently in Chapter 11, correct?

21 A. Yes.

22 Q. You had originally filed a lawsuit  
23 against Mr. Goldberg concerning the partnership  
24 in Cook County Chancery, correct?

1 A. Yes.

2 Q. Then I assume that was stayed and  
3 it went into bankruptcy court?

4 A. Yes.

5 Q. So all your disputes are pending  
6 there?

7 A. Yes.

8 Q. I want to show you a document, and  
9 I think it was partially attached to one of  
10 your motions that was filed in the course of  
11 this lawsuit, which is marked as Exhibit R.

12 I'll call it a Schedule B-1 of  
13 the bankruptcy proceedings. I'll give that to  
14 you and your attorneys to take a look at.

15 (WHEREUPON, a brief pause  
16 was taken.)

17 THE WITNESS: Yes.

18 BY MR. FX:

19 Q. Have you seen that document before?

20 A. Yes.

21 Q. Do you know what this is?

22 A. It is a list of the properties  
23 related to the partnership.

24 Q. There is a category on the first

1 page that's called Agreed Schedule B-1?

2 A. Yes.

3 Q. Then there is something that's  
4 called -- on the second page of this document  
5 called Contested Properties and makes  
6 references to other exhibits that are attached?

7 A. Yes.

8 Q. Then if you go to the fourth page,  
9 there is a memorandum to Andy Maxwell from  
10 Jerome Torshen and James Genden, G-e-n-d-e-n?

11 A. Yes.

12 Q. It is marked Exhibit B.

13 Do you know who Jerome Torshen  
14 and James Genden are?

15 A. That was Mr. Goldberg's attorneys.

16 Q. This was made a part of the court  
17 record obviously because it is attached to this  
18 schedule listing what are agreed properties  
19 parties agree are part of the partnership, and  
20 the contested means properties that are being  
21 contested by either you or Mr. Goldberg as  
22 being part of the partnership; is that correct?

23 MR. SCHULMAN: I think it was the  
24 other way around. The agreed Goldberg agreed

1       were part of the partnership. The contested  
2       Goldberg said were not part of the partnership  
3       at the time of the filing, and I believe this  
4       was the filing -- the exhibit you have is the  
5       filing of the Chapter 11 proceedings by  
6       Goldberg.

7                       This filing has nothing to do  
8       with any later discovery, testimony, evidence,  
9       or findings of Judge James. This was the  
10      original schedule filed by Goldberg when he  
11      filed the Chapter 11.

12     BY MR. EX:

13             Q.       Mr. Wolf, did you ever file  
14       anything comparable to the R in terms of  
15       schedule of assets that you felt were either  
16       contested or agreed as being part of the  
17       partnership?

18             A.       I believe that I filed the original  
19       on the agreed and then where you have the --  
20       see attached List B --

21             Q.       That's the memorandum?

22             A.       -- those were the properties that  
23       the trustee had agreed were partnership  
24       properties, and then the other stuff started

1 with the contested stuff.

2 Q. Right.

3 A. I hope you understand these  
4 properties, this full list of properties were  
5 only certificates that were purchased and there  
6 were no deeds.

7 Q. Well, if you turn through the  
8 exhibit to the memorandum dated July 27th of  
9 1989, it says, below is a supplement to the  
10 previously supplied list of properties believed  
11 by Kenneth Goldberg to have been acquired by  
12 Louis Wolf in violation of his fiduciary duty  
13 to the partnership.

14 If you look on Page 2 of that  
15 memorandum look down to Items 158 and 160 --

16 A. Yes.

17 Q. --- those list properties at 1322  
18 and 1318 North Western, which is the property  
19 in issue in our lawsuit.

20 A. Correct.

21 Q. This is a list that Goldberg seems  
22 to be saying that you bought and/or somehow  
23 bought outside of your fiduciary duty.

24 A. Those are all --

1 MR. SCHULMAN: Wait.

2 What's the question? This is  
3 what Goldberg says on this list?

4 MR. EX: Right.

5 MR. SCHULMAN: The list speaks for  
6 itself.

7 BY MR. EX:

8 Q. Is it your understanding that  
9 Goldberg has made any other assertion about  
10 this property besides what he says on this  
11 memorandum?

12 A. Well, he has asserted that he was a  
13 partner to Mr. Maxwell, that he was a partner  
14 of 1320.

15 Q. He said that to Mr. Maxwell?

16 A. Yes, and I agreed that he was a  
17 partner to that property. I also agree that he  
18 is a partner to all of these certificates.

19 Q. Are these certificates in this  
20 memo, all these addresses?

21 A. Those are only certificates.

22 Q. They are just certificates?

23 A. They are certificates that we never  
24 went to deed on.

1 Q. Including 1322 and 1318 on North  
2 Western?

3 A. Basically that's the truth.

4 Q. What do you mean basically that's  
5 the truth?

6 A. Basically because we were going  
7 to -- we had this flare-up between us, and all  
8 this stuff over here is being handled by Andrew  
9 Maxwell now. He has eliminated a lot of  
10 properties, and he has adjusted some of the  
11 properties.

12 MR. SCHULMAN: Go off the record.

13 (WHEREUPON, a discussion  
14 was held off the record.)

15 BY MR. EX:

16 Q. Mr. Wolf, we just had a brief  
17 discussion off the record where I was I believe  
18 informed that Exhibit B of this memorandum  
19 dated July 27, 1989 are all properties that are  
20 listed as actually tax certificates rather than  
21 outright ownership.

22 A. That's right.

23 Q. So when we look at Items 158 and  
24 160 when Mr. Goldberg at least in this memo is

1 asserting that they were purchased outside your  
2 fiduciary duty, that is only relating to the  
3 purchase of the tax certificates, correct?

4 A. That's right. Mr. Goldberg was  
5 holding those tax certificates all the time.

6 Q. You gave them to him?

7 A. Yes. He got them because he bought  
8 them with partnership money.

9 Q. You bought the property through the  
10 broker, correct, originally?

11 A. We bought the property through the  
12 broker. Not I. We. We brought the property.  
13 It was decided that we would be best off in  
14 buying the property getting a quit claim deed  
15 from the titleholders. That's what she wanted  
16 to give us because there were some estate  
17 problems at the time with her.

18 Q. But you don't recall on the  
19 contracts since you don't have a copy of the  
20 sales contract who the purchaser was?

21 A. I never seen the woman. I don't  
22 remember.

23 Q. So you don't remember?

24 A. That's a concept of the deal. The

1 deal was where we had notified them that we  
2 were going to go to deed and they came in and  
3 sold their interest.

4 Q. You also testified before, though,  
5 you have no recollection whether Goldberg ever  
6 actually contributed any money towards the  
7 purchase.

8 A. Yes, he did. He definitely was a  
9 partner.

10 Q. I understand you say he was a  
11 partner. But you don't remember whether he  
12 laid out the 15 grand?

13 A. I don't think it was 15 grand  
14 because there was some repairs.

15 Q. We went through that. I use the 15  
16 grand in the -- as the figure because that's  
17 what was in the tax returns.

18 A. Okay.

19 Q. You had previously testified that  
20 you knew that there was an original -- there  
21 was at least one fire in 1986, correct?

22 A. Yes.

23 Q. You state that you don't have any  
24 recollection that there was actually two fires?

1           A.       No, because the party had called me  
2           and had advised me that there was a fire, that  
3           he had had a fire there.

4           Q.       Which party advised you?

5           A.       I am talking about the gentleman  
6           that -- the lessee that was on the premises.

7           Q.       That John Pauga, P-a-u-g-a, tenant?

8           A.       I don't remember who it was that  
9           called me. It could have been him. It could  
10          have been somebody else.

11          Q.       Was it somebody that represented  
12          themselves at least as an agent?

13          A.       I didn't pick the phone up.  
14          Somebody in the office picked the phone up.  
15          They said they were taking care of it.

16          Q.       All right.

17                   Now, you stated earlier that  
18          you had in fact done an inspection of the  
19          property at some point before the purchase of  
20          the tax certificate?

21          A.       Yes.

22          Q.       When you said that you did a visual  
23          inspection, what literally did that consist of?

24          A.       You go over to the piece of

1 property, and you take -- you make a visual  
2 inspection of the outside of the property. You  
3 drive around the back, make sure that the  
4 building is still intact, make sure that the  
5 electric is still going into the building,  
6 check the location, see if there is any -- if  
7 it has any potential at all.

8 Q. But you didn't like get a ladder  
9 and climb on the roof and do that?

10 A. No, you can't do that. You don't  
11 have the right to do that.

12 Q. You already stated you didn't go --

13 A. At no time.

14 Q. At no time you went into the  
15 property.

16 You did say it was a problem  
17 with the roof?

18 A. After I got it.

19 Q. And you had it repaired?

20 A. Yes.

21 Q. Who repaired it for you?

22 A. I don't remember.

23 Q. You hired somebody to do it for  
24 you?

1 A. Sure.

2 Q. Do you remember if it was you or  
3 Mr. Goldberg that took care of getting it  
4 repaired?

5 A. I believe it was me.

6 Q. Did anybody ever report back to you  
7 after they fixed the roof telling you anything  
8 about the condition of the property?

9 A. I think we fixed the roof. No one  
10 had to report to us. Otherwise we would have  
11 had the -- the tenant would have been  
12 complaining about the water coming in.

13 Q. But you never as far as you can  
14 recall personally checked with the roof repair  
15 company?

16 A. No, because the man was paying his  
17 rent. He wouldn't pay his rent if he couldn't  
18 be in there.

19 Q. What did the broker tell you, if  
20 anything, about the condition of the property  
21 when she or he told you about it?

22 A. I don't remember. I just don't  
23 remember. You are asking me many, many years  
24 ago.

1 Q. The broker did not tell you  
2 anything about the nature of A-Chem's business?

3 A. Absolutely not. He told me that  
4 they did have a problem with the roof.

5 Q. Now, you had stated that A-Chem was  
6 an existing tenant and stayed on until the  
7 fire.

8 Did you initiate a new lease  
9 agreement --

10 A. I don't remember. I don't think  
11 so.

12 Q. -- with them?

13 A. I don't remember if they had  
14 another lease.

15 Q. Do you remember negotiating with  
16 them at all after purchasing it?

17 A. No. I don't remember having any  
18 problems with them. I think they were paying  
19 the rent and --

20 Q. So they went -- did they basically  
21 continue paying the same rent and the same  
22 agreement that they had prior to your  
23 purchasing it?

24 A. I believe so.

1 Q. Let me show you what's been marked  
2 as Exhibit S, which for the record seems to be  
3 a document authored by the City of Chicago  
4 Bureau of Fire Prevention, a notice dated  
5 05/25/85 and I'll ask you, Mr. Wolf, if you  
6 ever recall seeing this document.

7 A. I don't remember.

8 Q. It is apparently notice of some  
9 Municipal Code violation related to  
10 replastering the ceiling or walls where the  
11 plaster was falling off near the front entrance  
12 and defective ceilings throughout.

13 Were you ever -- to your  
14 recollection, were you ever made aware there  
15 were ceiling problems or plaster problems at  
16 the building after you purchased it?

17 A. We were aware that there was a  
18 problem with the roof, and I couldn't tell you  
19 if I went in and repaired or if the tenant  
20 repaired it. If we had received notice, we  
21 would have contacted the tenant and tried to  
22 get them to fix it first. If they wouldn't fix  
23 it, then we would fix it.

24 Q. When you first repaired the roof

1 after purchasing the property, that was  
2 undertaken by you, though, right?

3 A. Right.

4 Q. That wasn't done by the tenant?

5 A. That's right.

6 Q. How soon after your purchase of the  
7 property was that repair undertaken, if you  
8 know?

9 A. I wish I could tell you. Honestly  
10 I don't know.

11 Q. You think within the first year of  
12 purchase?

13 A. Definitely, yes.

14 Q. This notice is a couple or three  
15 years after you purchased the properties in  
16 '83. Do you know if --

17 A. I think we bought it in '82, didn't  
18 we?

19 Q. You did. I am asking in '85 do you  
20 recall if there were any repairs made --

21 A. I don't recall.

22 Q. -- by you or the partnership?

23 A. If there was, there would have been  
24 some expenses. They would have shown some

1 expenses on the tax -- oh, '85. I don't know.

2 You could check and find out  
3 because they never accepted the tax returns  
4 from the expenses from my accountant, and my  
5 accountant would have this information if you  
6 want me to check with her.

7 Q. Your accountant would?

8 A. Oh, sure. If we did the repairs,  
9 she would have those repairs.

10 Q. Okay.

11 A. I can call her and find out because  
12 she would go through the books because there  
13 was the stuff that was mailed to Jutovsky, and  
14 then Jutovsky never picked up on it.

15 If you make a notation, I'll  
16 call her and see what she's got. That would  
17 let you know if we in fact repaired these  
18 things or if the tenant or nobody did because  
19 it is '85 already, and if they didn't do  
20 anything, they had the fire in '86.

21 Q. Do you have any recollection in  
22 1985 -- your testimony is you don't know  
23 whether you ever saw this?

24 A. That's right.

1 Q. This notification of ordinance  
2 violation?

3 Do you have any recollection  
4 of contacting the tenants, A-Chem, about the  
5 property in '85 for any reason?

6 A. I don't remember.

7 Q. Do you have knowledge as to what  
8 caused the fire at A-Chem in '86?

9 A. There was a fire report on there.  
10 That would be easily ascertained.

11 Q. My purpose of the question is to  
12 find out what your knowledge of it is.

13 A. I don't know, no. I never knew  
14 anything about it for three years because they  
15 said they were taking care of it.

16 Q. Who is they?

17 A. The people that were the tenants  
18 there, the lessee.

19 Q. How soon after the fire did you  
20 first become aware of the fire itself?

21 A. I would imagine that he called the  
22 office and told us that there was a fire there.

23 Q. You don't know for sure? You are  
24 just basically speculating at this point?

1           A.       I know that somebody there called  
2       the office, and I think -- I don't know who  
3       even went over there to look at it. Probably  
4       Ernie might have gone over there to look at it.  
5       I can't enlighten you on that, and I really  
6       don't know. If I am going to tell you  
7       something -- I mean, I am under oath.

8           Q.       This gentleman that owned A-Chem,  
9       did you ever have any conversation that you  
10      recall with that man?

11          A.       Never met the man. I wouldn't know  
12      what the man looked like.

13          Q.       Did you ever talk to any of his  
14      employees to your recollection?

15          A.       Never.

16          Q.       So nobody from A-Chem, the owner or  
17      any employees, ever talked to you to explain  
18      his business to you?

19          A.       No, never.

20          Q.       When I say explain his business, to  
21      say we do this, say this is what we do, we mix  
22      chemicals for the electroplating industry.  
23      Nobody ever sat down and explained that to you?

24          A.       No.

1 Q. Whether it be from A-Chem or the  
2 broker or anyone else who would have had  
3 knowledge about A-Chem?

4 A. They never mentioned what the man's  
5 business actually was.

6 Q. You weren't aware prior to the fire  
7 that A-Chem had used acids and cyanides in  
8 their processes?

9 A. No.

10 Q. Do you have any knowledge at all  
11 personally as to what type of chemicals were  
12 released as a result of the fire?

13 A. No.

14 Q. Were you aware that any -- I am  
15 going to read a list of chemicals. Were any of  
16 these chemicals --

17 A. I would not be familiar. I could  
18 never help you with that because I don't have  
19 any background.

20 Q. You are not a chemist, I take it?  
21 You have no chemist training?

22 A. No.

23 Q. So you didn't know whether like  
24 chromium, hexavalent, nickel, fluoric cyanide,

1 sodium, benzoate or sodium cyanide or dichromic  
2 acid or phosphoric acids were at all used in  
3 A-Chem processees?

4 A. No.

5 Q. Or if they were found after the  
6 clean-up efforts?

7 A. I never saw.

8 Q. You never hired a chemist or an  
9 environmental engineer or a geologist to look  
10 at the property in this lawsuit, did you?

11 A. No.

12 Q. Did you ever hire an environmental  
13 engineer or a geologist in your business at all  
14 in your 25 years of experience?

15 A. Yes, I did.

16 Q. Can you tell me what occasion did  
17 you ever have to hire an environmental engineer  
18 or geologist?

19 A. I bought a piece of property in  
20 Cicero, and I had the property -- I got a  
21 customer for the property. They wanted it --  
22 they wanted the environmental certification  
23 before they would go through with the deal.

24 Q. So you hired somebody as a seller?

1 A. Yes, I did.

2 Q. Not as the buyer?

3 A. No.

4 Q. What year was that sale?

5 A. This year. It hasn't gone through  
6 yet.

7 Q. Who did you hire, an engineer or  
8 geologist?

9 A. Ecologic. They are a firm. That's  
10 what they do. They clean up if you have  
11 asbestoes of that nature. There was asbestoes  
12 in the property around the boilers, and they  
13 cleaned it up.

14 Q. Had you ever hired an environmental  
15 engineer or geologist prior to that time?

16 A. No.

17 Q. Or since that time?

18 A. No.

19 Q. So it is just the one occasion that  
20 you have hired somebody?

21 A. Well, I got a report on a piece of  
22 property at 26th Street and Wabash Avenue prior  
23 to my buying the property because I wanted to  
24 find out if there was asbestoes in the building.

1 Q. What kind of building was that?

2 A. It was a commercial building.

3 Q. What was the use of the building  
4 prior to your buying it? Do you know?

5 A. It was a factory for Studebaker,  
6 and they had some tanks in the ground. I  
7 wanted to make sure those tanks weren't  
8 leaking.

9 Q. What year was that purchase made?

10 A. It was last year.

11 Q. So you read an environmental report  
12 about that property?

13 A. I had them draw up an environmental  
14 report. It cost me a couple thousand dollars.

15 Q. That was the seller?

16 A. Yes.

17 Q. Did you end up purchasing the  
18 property?

19 A. No.

20 Q. Was it a result of the report?

21 A. No.

22 Q. For other reasons?

23 A. Price.

24 Q. Other than those two occasions that

1 you just recounted to me, have you ever either  
2 as a buyer or seller had an environmental  
3 engineer or a geologist look at property or  
4 give you any type of environmental report?

5 A. No, I don't believe so.

6 Q. Do you know a Greg Wilson?

7 A. Yes.

8 Q. Who is he?

9 A. He works in the office for me.

10 Q. He works at the office. When you  
11 say the office, is this the location on the  
12 6200 block of Broadway?

13 A. Yes.

14 Q. What did Mr. Wilson do for you?

15 A. He just checks real estate, you  
16 know; does collections.

17 Q. I want to show you what has been  
18 marked as Exhibit T, which for the record is a  
19 February 7, 1986 letter to Illinois Development  
20 to the attention of Greg Wilson from a Robert  
21 Zapolis, Z-a-p-o-l-i-s, and I'll just ask you  
22 to take a look at that, Mr. Wolf, and ask after  
23 you have had a chance to review it whether you  
24 have ever seen this letter before.

1 (WHEREUPON, a brief pause  
2 was taken.)

3 THE WITNESS: Yes.

4 BY MR. EX:

5 Q. When is the first time you recall  
6 seeing this letter?

7 A. I saw this letter -- I don't  
8 remember when I saw this letter.

9 Q. Do you remember what year you saw  
10 it first?

11 A. I don't remember.

12 Q. Do you know one way or the other  
13 whether you saw it in '86?

14 A. I really can't honestly tell you if  
15 I saw it in 1986. When was the fire?

16 Q. The fire was on January 26th of  
17 1986.

18 A. You told me there was two fires  
19 there?

20 Q. Yes.

21 A. When was the second fire?

22 Q. Second fire was on June 2nd.

23 A. Of '86?

24 Q. Correct.

1 A. I know that I spoke to this  
2 attorney, but it had to be --

3 Q. Let's ask a different question.

4 Do you know who this Attorney  
5 Zapolis is? Who does he represent? Do you  
6 know?

7 A. I see from the letter he  
8 represented Mr. Pauga.

9 Q. So the second paragraph where it  
10 says -- this is, of course, directed to Greg  
11 Wilson, so apparently he had some conversation  
12 with this lawyer -- you indicated you would  
13 contact Mr. Wolf and communicate his response  
14 either to myself or the Environmental  
15 Protection Agency, do you have any idea what  
16 response he was waiting to get from you?

17 A. I don't know because in 1986 John  
18 Pauga was still living, and first he told us  
19 that he had insurance. Then he said he didn't  
20 have insurance. Then he said he was going to  
21 repair the building. I guess the second fire  
22 was worse than the first fire. I don't  
23 remember.

24 Q. Do you know when Mr. Pauga died?

1 Do you have any knowledge of that?

2 A. No.

3 Q. Let me ask you -- I know that you  
4 don't remember when you saw the letter, but Mr.  
5 Wilson still works for you?

6 A. Yes.

7 Q. In the normal course of how your  
8 business would ordinarily operate, if Mr.  
9 Wilson was contacted by a lawyer about some of  
10 your property in this kind of situation about a  
11 fire, would you normally expect that Mr. Wilson  
12 would inform you of such an event?

13 A. He would have informed me, and I  
14 would have definitely called Mr. Zapolis.

15 Q. Although you can't recall whether  
16 or not you saw this letter in '86, would it be  
17 reasonable to assume that if things occurred as  
18 they would in the normal course of your  
19 business, you would have been informed after  
20 Mr. Wilson received the letter?

21 A. If I had received this type of  
22 letter, I would have sent somebody to find out  
23 what it would have cost to either tear the  
24 building down or do whatever I had to do over

1 there.

2 If this was the first fire and  
3 if the first fire -- if there wasn't too much  
4 damage with the first fire, I would have  
5 certainly acted upon it.

6 Q. Do you remember in '86 -- you did  
7 sometime after February 7th of '86 act upon --

8 A. I can't remember. It doesn't ring  
9 a bell to me.

10 Q. -- this letter?

11 A. All right.

12 It says over here that the  
13 Environmental Protection Agency was in the  
14 process of cleaning up the site. They must  
15 have been there already when they sent this  
16 letter.

17 Q. Do you remember contacting the EPA  
18 sometime after February 7, 1987?

19 A. No, but remember calling Mr.  
20 Zapolis.

21 Q. What do you remember about the  
22 conversation you had with Mr. Zapolis?

23 A. I wish I could tell you. I really  
24 don't remember.

1 Q. Even the general contents of the  
2 conversation?

3 A. I know they were going to fix up  
4 the building because they were in the building,  
5 and he told me the first time.

6 Q. Did he tell you anything about what  
7 damage the fire caused?

8 A. What it was caused by?

9 Q. Not necessarily what it was caused  
10 by but what the condition of the building was  
11 as a result of the fire.

12 Did you have any conversation  
13 about that? I would assume you would be  
14 concerned about what happened to you property;  
15 is it totally burned to the ground or what's  
16 going on here, and I guess what I want to find  
17 out is did you either through personal efforts  
18 or inspection or having one of your employees  
19 or by having Mr. Pauga or his lawyer explain to  
20 you exactly what happened to your building as a  
21 result of the fire.

22 A. This letter, it was in February,  
23 and the other fire that actually, as I  
24 understand it, did the most damage to the

1 property you tell me was in June.

2 Q. I didn't say anything about the  
3 degree of damage. I merely commented there was  
4 two fires.

5 A. I don't know. I know that I sent  
6 somebody over there.

7 Q. You did?

8 A. I am sure I would have if I got  
9 this letter, but I don't know when I got this  
10 letter.

11 Q. Who do you know you would have sent  
12 over there? Would it have been Greg Wilson?

13 A. It would have been that Ernie  
14 Howard.

15 Q. Where is Mr. Howard today? Do you  
16 know where to reach him or to find him?

17 A. I could probably find him for you,  
18 yes.

19 Q. If we had to contact him, how would  
20 we go about it doing it?

21 A. I don't have an address for him  
22 other than the 6354 North Broadway. He still  
23 should be there.

24 Q. But you don't know whether in fact

1 Mr. Howard did in fact inspect it after the  
2 fire?

3 A. No, I don't.

4 Q. In your conversations with Mr.  
5 Zapolis, did he tell you what the nature of --  
6 why the EPA had to clean up the site? Did he  
7 tell you what had happened?

8 A. No.

9 Q. So you just knew that the EPA was  
10 cleaning something?

11 A. They were in there, and as I had  
12 understood it, they were in contact with his  
13 client before they did that.

14 Q. The EPA?

15 A. Yes.

16 It says over here he died in  
17 1986 in January.

18 Q. Do you know whose handwriting that  
19 is, that handwriting notation on Exhibit T?

20 A. I think it is that Mr. Howard's  
21 handwriting. I am not positive, though. Here  
22 it says he died in January of '86, so he must  
23 have been dead when this letter went out.

24 Q. Do you remember the lawyer ever

1       telling you that his client was dead?

2           A.       No.

3           Q.       Would it be fair to assume that  
4       when you talked to Mr. Zapolis or whoever from  
5       A-Chem that informed you there was a fire that  
6       at that time you knew that A-Chem was involved  
7       with using chemicals?

8           A.       Well, if I had spoken to Mr.  
9       Zapolis, I would have certainly known that  
10      A-Chem was involved with some kind of chemicals  
11      only because if the Environmental Protection  
12      Agency was in there cleaning up the site, it  
13      would be logical.

14          Q.       You know what the EPA is and what  
15      it does?

16          A.       Sure. Yes.

17          Q.       What is the Illinois Development  
18      Company that's listed on Zapolis' letter to  
19      Greg Wilson?

20          A.       Probably Illinois Investments or  
21      Development. It used to be Illinois  
22      Investments and Development. That's with Kenny  
23      Goldberg.

24          Q.       When you were testifying before

1 about Illinois Investments, somehow the name  
2 got changed?

3 A. It didn't get changed. It was part  
4 of the entire name, Illinois Investments was.

5 Q. That was a doing business as  
6 arrangement; is that correct?

7 A. Yes.

8 Q. Was Illinois Development ever used  
9 as a business name for your dealings outside of  
10 the partnership?

11 A. No.

12 Q. So that would only have been as to  
13 partnership property that that name would have  
14 been used?

15 A. Yes.

16 Q. Goldberg-Wolf Partnership?

17 A. Yes.

18 Q. Did Mr. Goldberg ever work out of  
19 your office on 6300 North Broadway?

20 A. No.

21 Q. So when you got phone calls or  
22 things about partnership property, Goldberg was  
23 never there at that location?

24 A. Yes, he was. He was at that

1 location. He would come to the location. He  
2 took over the office over at 4750 once we  
3 bought that building.

4 Q. North Broadway?

5 A. On Broadway, yes. He moved into  
6 that building. That building was 90 percent  
7 vacant, and we wanted to have somebody in the  
8 building to watch out for the building.

9 Q. You never personally observed any  
10 of the clean-up efforts I take it?

11 A. No.

12 Q. Do you know if any of your agents  
13 or people that work for you or for the  
14 partnership had any opportunity to inspect the  
15 property or the clean-up efforts after the  
16 fire?

17 A. No.

18 Q. I take it from your prior testimony  
19 you didn't hire anyone to analyze the damage  
20 after the first fire, did you?

21 A. No, I did not.

22 Q. For that matter, I assume you also  
23 didn't hire anybody to analyze the damage after  
24 the second fire?

1 A. That's right.

2 Q. For that matter, to analyze any  
3 fire damage at any time at all?

4 A. I can't honestly tell you that. I  
5 would have sent somebody over there.

6 Q. If you sent anybody, it probably  
7 would have just been Mr. Howard --

8 A. That's right.

9 Q. -- if it was anyone?

10 Mr. Howard, by the way, he  
11 doesn't have any special training in  
12 environmental engineering or geology, does he?

13 A. No.

14 Q. You wouldn't happen to know what  
15 his educational background is, do you?

16 A. No.

17 Q. Did you ever personally speak to  
18 the EPA or anyone at the EPA?

19 A. No.

20 Q. Did you ever talk to anybody at the  
21 Chicago Fire Department about the damage?

22 A. No, I did not.

23 Q. Did you talk to anybody at the  
24 Chicago Police Department about the damage?

1 A. No.

2 Q. How about the Illinois  
3 Environmental Protection Agency?

4 A. No.

5 Q. Talk to anybody from the City of  
6 Chicago like the housing or building  
7 departments about the fire at this property?

8 A. I didn't inquire in the fire  
9 because I was always of the impression that the  
10 tenant was taking care of it.

11 Q. You were under that impression even  
12 though this handwritten notation attached to  
13 Exhibit K said John Pauga was dead in 1986?

14 A. That's what I just seen now. I  
15 didn't see that before.

16 Q. You didn't know that before?

17 A. No. I don't know the accuracy of  
18 that.

19 Q. Did you ever have a chance to  
20 attempt to contact any of his family members  
21 after you realized -- at some point you  
22 realized he was dead, correct?

23 A. No. I never met the man.

24 Q. Did you ever attempt to contact any

1 of his family members at any time?

2 A. No.

3 Q. A wife or children?

4 A. No.

5 Q. Or anybody that would have  
6 represented an estate of his?

7 A. I understood he was in bankruptcy.

8 Q. When did you understand that he was  
9 in bankruptcy?

10 A. When I found out that he had no  
11 insurance.

12 Q. So after the fire he would have  
13 declared bankruptcy?

14 A. That's what I understood. I never  
15 checked on it, though.

16 Q. Did you ever get contacted by any  
17 community groups about the property after the  
18 fire?

19 A. No.

20 Q. Any city alderman? I think  
21 Guitierrez was the alderman.

22 A. I never received any letters or  
23 anything from him. I don't believe that man  
24 died on that date because he was there much

1 after the fire -- the fires.

2 Q. First of all, let me make clear  
3 that I am not suggesting to you what his date  
4 of death was.

5 A. I don't know where it came from.

6 Q. You have been in the real estate  
7 business over 25 years you stated before?

8 A. Yes.

9 Q. You know the Chicago neighborhoods  
10 fairly well?

11 A. I know the neighborhoods well.

12 Q. You know the neighborhood where the  
13 property in this case was located fairly well?

14 A. Yes.

15 Q. Were you aware of any other fires  
16 in that neighborhood after or prior to  
17 purchasing the property?

18 A. There is a considerable amount of  
19 fires in that particular area, yes.

20 Q. Were you aware of that fact before  
21 you bought the property?

22 A. Yes.

23 MR. EX: One minute, please.

24

1 (WHEREUPON, a brief pause  
2 was taken.)

3 MR. EX: I just want to clarify one  
4 thing for the record, Mr. Wolf.

5 BY MR. EX:

6 Q. I know I asked you the question if  
7 you remember speaking to anybody at the EPA. I  
8 know you said you didn't or at least you didn't  
9 remember; is that right? You don't remember  
10 talking to anybody at the EPA?

11 A. When is it that you are asking me?

12 Q. After the fire.

13 A. No, I don't believe I spoke to  
14 anybody from EPA.

15 Q. Do you remember receiving any  
16 letters from the EPA after the fire, at any  
17 time after the fire?

18 A. If I had received a letter, it  
19 would have been in the file that I turned over  
20 to the lawyers.

21 Q. We are getting close to the stretch  
22 run here, Mr. Wolf.

23 I want to turn your attention  
24 to the complaint and the answer that you filed

1 or had -- I am sure your lawyers had a great  
2 deal to do with the filing of the answer.

3 Let me just tender to you what  
4 for the record has been marked as Exhibit L,  
5 which is the answer to the complaint, and just  
6 for your own reference, I'll also give you  
7 what's been marked as Exhibit K, which is a  
8 copy of the complaint, so you can see what the  
9 allegations were in comparison to the answers.

10 Let me direct your attention  
11 to Exhibit L, and my first question will be  
12 have you ever seen it before.

13 (WHEREUPON, a brief pause  
14 was taken.)

15 THE WITNESS: I don't remember if I  
16 seen this before. I know I spoke to him. I  
17 spoke to Mr. Gesas and Mr. Weiland. This might  
18 be -- you are asking Exhibit L?

19 MR. EX: Right. I am asking if you  
20 have ever seen it before.

21 THE WITNESS: I may have gone  
22 through these questions.

23 BY MR EX:

24 Q. Again, I don't want to mislead you

1 to just give you that document. I have this  
2 accompanying document. Those are the answers.  
3 You see the lawyers responded by admitting it  
4 or denying without setting forth the  
5 allegations.

6 I'll also ask you after you  
7 have had a chance to review the complaint  
8 whether or not anybody ever showed that to you.  
9 I know everybody was served with it.

10 (WHEREUPON, a brief pause  
11 was taken.)

12 BY MR. EX:

13 Q. Mr. Wolf, have you had a chance to  
14 look at those?

15 A. Yes.

16 Q. Let me ask you first as to Exhibit  
17 K, which is the complaint, do you recall seeing  
18 the complaint before?

19 A. I believe so.

20 Q. Do you remember seeing Exhibit L  
21 then, or you don't know whether you saw that  
22 document before or not?

23 A. I am not positive I saw it.

24 Q. Do you remember your lawyers at the

1 time, Mr. Gesas and Mr. Weiland, do you  
2 remember them discussing the answers to the  
3 complaint with you?

4 A. I believe so, yes.

5 Q. Let me turn your attention to  
6 Allegation No. 11 of the complaint and also  
7 your corresponding Answer No. 11, which for the  
8 record, the complaint on Paragraph 11 says, to  
9 date, the United States has incurred costs in  
10 excess of \$201,000 in responding to the  
11 releases of hazardous substances from the  
12 facility, and then your answer to that was,  
13 Defendant denies the allegations in Paragraph  
14 11.

15 As you sit here today, do you  
16 know what the basis was for denying that  
17 allegation?

18 A. As I understand it, they didn't  
19 have a breakdown of the expenses; something or  
20 other; that you didn't submit the payment of  
21 the \$201,000 in relation to the removal of the  
22 hazardous waste there. That's what I  
23 understood it to claim.

24 Q. So what you are saying -- I don't

1 want to misunderstand. The basis as you know  
2 for denying the allegation is because you  
3 didn't see a breakdown of the costs; is that  
4 right?

5 A. Nor the attorney didn't see the  
6 breakdown of the cost.

7 Q. Okay.

8 So that's the result of just  
9 not knowing what the costs were?

10 A. That's right.

11 Q. Turning to Paragraph 13 of the  
12 complaint, which for the record states, the  
13 United States has satisfied all conditions  
14 precedent to a response action, the incurrence  
15 of response costs and to recovery of such  
16 response costs under Section 107 of CERCLA, 42  
17 U.S.C. 9607, and the corresponding answer was a  
18 denial, Defendant denies the allegations of  
19 Paragraph 13.

20 As you sit here today -- I am  
21 only asking for your understanding -- do you  
22 know what the basis of that denial was, that  
23 allegation?

24 A. I don't remember the response that

1 was made, you know, from the attorney I was  
2 talking to at the time for this question.

3 I would imagine that the  
4 question of whether or not all the conditions  
5 precedent to response action was concluded to  
6 be a response to the cost.

7 Q. Let me just follow it up with this  
8 question.

9 Do you know personally or knew  
10 from whatever source what conditions precedent  
11 to a response action haven't been met?

12 A. No, I don't know what you submitted  
13 to the attorneys, but I don't know what they  
14 had at this date.

15 Q. So you don't know one way or the  
16 other personally what conditions were or were  
17 not met to the response action?

18 A. I don't.

19 Q. Turning your attention to this  
20 Exhibit C, which is the interrogatories  
21 answers, there was Interrogatory No. 2.

22 That for the record asks you  
23 to state the factual basis for your allegation,  
24 which was in your complaint, Defendant is an

1 innocent owner as defined in 42 U.S.C, Section  
2 9601(35) (A), (B), and 9607 (3) (A) and (B).  
3 Then to identify all people with knowledge of  
4 those facts supporting the allegation and the  
5 circumstances giving rise to such knowledge and  
6 identify all documents related to or relied  
7 upon for the basis of this allegation.

8 Your answer to that question  
9 was that Defendant never had any ownership  
10 interest in (never participated in the  
11 management of or had control over or operated)  
12 A-Chem.

13 Do you remember reading this  
14 before you signed it?

15 A. Yes.

16 Q. So you still stand by this answer?

17 A. Yes. It is absolutely true. I  
18 never had an interest or never knew what they  
19 were doing in there.

20 Q. In the second paragraph last  
21 sentence of that answer to Interrogatory 2  
22 says, prior to the purchase of the land,  
23 Defendant had no knowledge or reason to know  
24 that a fire would occur that would require a

1 response action.

2 A. Yes.

3 Q. You stand by that part of the  
4 answer, too, correct?

5 A. Yes.

6 Q. Are there any other facts or  
7 circumstances other than what you set forth in  
8 this answer that would support your affirmative  
9 defense of innocent ownership that you know of  
10 as you sit here today?

11 A. No.

12 MR. EX: Excuse me one minute.

13 (WHEREUPON, a discussion  
14 was held off the record.)

15 BY MR. EX:

16 Q. Mr. Wolf, you were convicted of  
17 arson, were you not, on April 9, 1974?

18 MR. SCHULMAN: Objection. That has  
19 no relevancy at all to this case. I am  
20 instructing my client not to answer.

21 BY MR. EX:

22 Q. Isn't that true, Mr. Wolf?

23 MR. SCHULMAN: I am instructing him  
24 not to answer.

1 MR. EX: I'll just point out again,  
2 as you know, under the Federal Rules of Civil  
3 Procedure, relevancy is not a sufficient ground  
4 for instructing your client not to answer.

5 MR. SCHULMAN: And I submitted --  
6 as I submitted --

7 MR. EX: I just want --

8 MR. SCHULMAN: As I submitted in  
9 the -- was it the request for admissions of  
10 fact or the second request?

11 First of all, read the  
12 question back to me.

13 (WHEREUPON, the record was  
14 read.)

15 MR. SCHULMAN: As the response  
16 where you asked the question in Interrogatory  
17 No. 10 -- what exhibit do you have your  
18 interrogatories as -- Exhibit C, Interrogatory  
19 10, the objection to that was that the answer  
20 to that interrogatory as well as the answer to  
21 this question because you framed it with the  
22 time frame of 1974, which means that that  
23 evidence is inadmissible under Rule 609 (B) of  
24 the Federal Rules of Civil Procedure, and,

1       therefore, I instruct the client not to answer  
2       on the ground that the evidence is inadmissible  
3       under the Federal Rules of Evidence and can't  
4       lead to anything discoverable or relevant to  
5       this case.

6       BY MR. EX:

7               Q.       So I take it, Mr. Wolf, you are  
8       going to stand by your lawyer's instruction not  
9       to answer?

10              A.       Yes.

11              Q.       You don't deny it, though, do you?

12                      MR. SCHULMAN:  Objection.  If it is  
13       inadmissible and objectionable on one ground  
14       asked one way, it is objectionable and  
15       inadmissible to the other way or any way you  
16       can phrase the question because I don't believe  
17       that rule 609 (B) says that you can try to ask  
18       the same question 14 different ways because the  
19       answer, if true, is inadmissible.

20                      MR. EX:  609 says nothing about how  
21       to ask a question.

22                      MR. SCHULMAN:  Go ahead and ask it  
23       as many ways as you want because I'll give you  
24       the same answer because the rule is still the

1 same.

2 MR. EX: Well, obviously we are not  
3 going to get anywhere here with my trying to  
4 educate you to Rule 609, so I am not going to  
5 even try.

6 MR. SCHULMAN: 609 (B). Let's be  
7 specific about it.

8 MR. EX: So we will just have to  
9 take it up, I guess, with Judge Zagel.

10 MR. SCHULMAN: Okay. That's fine.

11 And for the record, if Judge  
12 Zagel instructs us to answer the question,  
13 we'll answer the question. You can have it in  
14 writing or back here, but it is my opinion that  
15 it is inadmissible in evidence because of the  
16 time and therefore can't lead to anything  
17 relevant or admissible in court.

18 BY MR. EX:

19 Q. Mr. Wolf, other than the conviction  
20 in 1974 --

21 MR. SCHULMAN: Objection. Since  
22 the question has not been -- the question has  
23 been asked but not finished.

24 MR. EX: Let me finish the question

1 and then you can interject.

2 MR. SCHULMAN: Your question is  
3 now?

4 MR. EX: Let me get it on the  
5 record. You can object to whatever you wish.

6 BY MR. EX:

7 Q. Other than your conviction in 1974  
8 for arson, have you ever committed any other  
9 acts of arson?

10 MR. SCHULMAN: Wait a minute.

11 First of all, the question  
12 assumes an answer which I have objected to, and  
13 as far as the rest of the question, have you  
14 committed any other acts of arson, it is  
15 totally irrelevant.

16 Unless you have some  
17 specifics, it is unanswerable because in all  
18 the Federal Rules of Evidence, the only matters  
19 impeachable are either convictions or specific  
20 instances of misconduct.

21 So if you do not have another  
22 conviction to ask him about or a specific act  
23 of misconduct which you wish to question him  
24 about, the question is framed so it can't lead

1 to anything discoverable.

2 MR. EX: All I am asking is for any  
3 specific act of misconduct in the nature of  
4 arson other than in 1974.

5 MR. SCHULMAN: Wait a minute. Wait  
6 a minute. Let's be serious about this.

7 MR. EX: He can answer it either  
8 yes or no.

9 MR. SCHULMAN: Let's be serious  
10 about this.

11 MR. EX: He can answer.

12 MR. SCHULMAN: The question of  
13 arson or conviction is not something that is an  
14 element of the Government's case. Therefore,  
15 the only way that you could ever use this is as  
16 cross examination at trial, and to cross  
17 examine the man at trial, the information has  
18 to be admissible under the Federal Rules of  
19 Evidence.

20 The only two types of evidence  
21 that are admissible in this context are either,  
22 a, convictions, which I have already objected  
23 to and we went through for the one you asked  
24 or, b, specific acts. So ask him about a

1 specific act. You couldn't just generalize it.

2 MR. EX: Well, nothing that you  
3 have said to me convinces me that my question  
4 is improper, so I don't think that I can  
5 rephrase it any other way. So the question  
6 stands, and I'll ask for the response.

7 MR. SCHULMAN: Ask the question  
8 without the paraphrasing of your previous  
9 question.

10 BY MR. EX:

11 Q. Have you committed any acts of  
12 arson, Mr. Wolf?

13 A. No.

14 MR. SCHULMAN: And that answer is  
15 in the form of the fact that your previous  
16 question about a conviction is objectionable  
17 and that he has been instructed not to answer.

18 So if the judge orders him to  
19 answer on your previous question regarding a  
20 conviction, this answer is not inconsistent  
21 with what the answer will be under the judge's  
22 order if he so orders.

23 MR. EX: I think I understand that.

24 MR. SCHULMAN: You want me to try

1 it again?

2 The man has answered no, and  
3 if he was convicted and if the judge orders him  
4 to answer, then obviously the answer no is  
5 incorrect. So with the caveat of convictions  
6 aside, the question is has he ever committed  
7 any other acts, and he has answered no.

8 MR. EX: Okay. I think I  
9 understand your caveat now.

10 MR. SCHULMAN: Fine.

11 MR. EX: Okay. Excuse me one more  
12 last moment.

13 (WHEREUPON, a discussion  
14 was held off the record.)

15 MR. EX: I have no further  
16 questions unless you have some.

17 MR. SCHULMAN: I have no questions.

18 You are going to get it  
19 written up?

20 MR. EX: Mr. Wolf, obviously you  
21 have the right and opportunity to review this  
22 for accuracy, or you can waive your right to  
23 review it.

24

1 MR. SCHULMAN: We'll exercise our  
2 right to review it and not waive.

3 MR. EX: Signature shall be  
4 reserved.

5 (FURTHER DEPONENT SAITH NOT.)  
6  
7  
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24

1 I hereby certify that I have read the  
2 foregoing transcript of my deposition given at  
3 the time and place aforesaid, consisting of  
4 pages 1 through 194, inclusive, and I do again  
5 subscribe and make oath that the same is a  
6 true, correct and complete transcript of my  
7 deposition given as aforesaid, with  
8 corrections, if any, appearing on the attached  
9 correction sheet(s).

10  
11  
12  
13 ----- Correction sheet(s) attached.

14  
15  
16  
17 -----  
18 LOUIS WOLF

19  
20  
21 Subscribed and sworn to  
22 before me this \_\_\_\_\_ day of  
23 \_\_\_\_\_, A.D. 1991.

24 -----  
Notary Public

1     STATE OF ILLINOIS     )  
                                  )     SS.  
2     COUNTY OF C O O K     )

3                     I, ETTA R. JONES, C.S.R., and a  
4     Notary Public within and for the County of Cook  
5     and State of Illinois, do hereby certify that  
6     heretofore, to-wit, on the 13th day of March,  
7     A.D., 1991, personally appeared before me, at  
8     219 South Dearborn Street, County of Cook and  
9     State of Illinois, LOUIS WOLF, produced as a  
10    witness for discovery examination in said  
11    cause.

12                    I further certify that the said  
13    witness, LOUIS WOLF, was by me first duly sworn  
14    to testify the truth, the whole truth and  
15    nothing but the truth in the cause aforesaid  
16    before the taking of the deposition; and the  
17    testimony was reduced to writing in the  
18    presence of said witness by means of machine  
19    shorthand and afterwards transcribed into  
20    typewriting, and that the foregoing is a true  
21    and correct transcript of the testimony given  
22    by said witness.

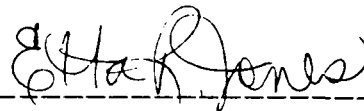
23                    I further certify that there were  
24    present at the taking of the deposition MR.

1 CHARLES EX on behalf of the United States of  
2 America, MS. BETH HENNING on behalf of the U.S.  
3 Environmental Protection Agency, and MR.  
4 JEFFREY SCHULMAN on behalf of the Defendant,  
5 Louis Wolf.

6 I further certify that I am not  
7 counsel for nor in any way related to any of  
8 the parties to this suit, nor am I in any way  
9 interested in the outcome thereof.

10 I further certify that my certificate  
11 annexed hereto applies to the original and  
12 typewritten copies only, signed and certified  
13 transcripts only. I assume no responsibility  
14 for the accuracy of any reproduced copies not  
15 made under my control and direction.

16 In testimony whereof, I have hereunto  
17 set my hand and affixed my notarial seal this  
18 25th day of March, A.D, 1991.

19  
20 

21 Notary Public

22 Cook County, Illinois

